

**MEDICAL EXAMINING BOARD
MINUTES
JULY 21, 2010**

PRESENT: Carolyn Bronston; James Conterato, MD; LaMarr Franklin; Jude Genereaux; Jerold Harter, MD; Sujatha Kailas, MD; Jack Lockhart, MD; Raymond Mager, DO; Suresh Misra, MD; Ian Munro, MD; Sandra Osborn, MD; Sheldon Wasserman, MD

STAFF: Tom Ryan, Bureau Director; Michael Berndt, Legal Counsel; Karen Rude-Evans, Bureau Assistant; other DRL staff

GUESTS: Anne Hletko, Council on Physician Assistants; Mark Grapentine, WI Medical Society; Judy Warmuth, WI Hospital Association; Jeremy Levin, Rural WI Health Cooperative; Ryan Natzke, WI Academy of Family Physicians; Patricia Epstein, Bell, Moore & Richter; Kenneth Kurt; Dan Hayes, Blumenfeld & Associates

CALL TO ORDER

Sujatha Kailas, Chair, called the meeting to order at 8:01 a.m. A quorum of thirteen (13) members was confirmed.

APPROVAL OF THE AGENDA

Amendments:

- Item 5 is moved to Item 8 (a)(i)
- Petition for Summary Suspension – Kenneth J. Kurt, DO – Case # 10 MED 186- insert after page 56 (closed session)
- Consideration of complaint – Kenneth J. Kurt, DO – Case # 10 MED 186 – insert after page 56 (closed session)
- Proposed Stipulations – Inserted after page 442 (closed session)
 - Kevin A. Lang, MD – 09 MED 102 – Case Advisor - Harter
 - Daniel M. Joyce, MD – 09 MED 227 – Case Advisor - Musser
 - Mark H. Decker, MD – 07 MED 277 – Case Advisor - Mager
 - David W. Rentmeester, MD – 09 MED 227 – Case Advisor - Musser
 - Paul E. Huepenbecker, MD, and consideration of complaint – 07 MED 190 and 08 MED 043 - Kailas
 - Douglas P. Moard, MD – Final Decision and Order (amended) – 08 MED 266 – Case Advisor - Kailas (REPLACES PAGES 89-96 OF THE AGENDA PACKET)
- Consideration of complaint – Narendar K. Jain, MD - 07 MED 208 – Case Advisor - Munro – insert after page 442 (closed session)
- Monitoring – Jennifer Nolden, PA – Consideration for Violation of Board Order – insert after page 549 (closed session)

- Uniform Application compared to the Wisconsin application for license to practice medicine and surgery – insert after page 12 (open session)
- Article relating to physicians' duty to report – insert after page after page 34 (open session)
- Latest version of the Regulatory Digest was emailed to the Board on 7/20/2010
- Case Status Report – insert at the end of the agenda packet (closed session)
- Updated board roster – informational item
- Item 8 (d) – correct the spelling of “Counsel” to “Council”

MOTION: Suresh Misra moved, seconded by Ian Munro, to approve the agenda as amended. Motion carried unanimously.

Sujatha Kailas thanked Tom Ryan and Karen Rude-Evans for emailing the late additions received in the bureau to the board members on Monday afternoon. It is helpful for the board members to receive the late additions a full day ahead of the meetings.

APPROVAL OF MINUTES OF JUNE 16, 2010

Correction:

- On page 3, under BOARD COMMITTEE AND WORKGROUPS, under Application Liaisons, delete “Gene Musser” and insert “Ian Munro”

MOTION: Sandra Osborn moved, seconded by Suresh Misra, to approve the minutes of June 16, 2010 as corrected. Motion carried unanimously.

PRESENTATIONS OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

O'RELL WILLIAMS, MD 07 MED 424

Attorney Jack Zwieg, DOE, presented a proposed stipulation, final decision and order in the disciplinary proceedings against O'Rell Williams, MD. This matter will be deliberated in closed session.

S FOLLEY DUNNA, MD 07 MED 393

Attorney Pamela Stach, DOE, presented a proposed stipulation, final decision and order in the disciplinary proceedings against S. Folley Dunna, MD. This matter will be deliberated in closed session.

LARRY B DEAN, MD
08 MED 261

Attorney Pamela Stach, DOE, presented a proposed stipulation, final decision and order in the disciplinary proceedings against Larry B. Dean, MD. This matter will be deliberated in closed session.

ROMILA MUSHTAQ, MD
09 MED 070

Attorney Sandra Nowak, DOE, presented a proposed stipulation, final decision and order in the disciplinary proceedings against Romila Mushtaq, MD. This matter will be deliberated in closed session.

DOUGLAS P MOARD, MD
08 MED 266

Attorney Sandra Nowak, DOE, presented a proposed stipulation, final decision and order in the disciplinary proceedings against Douglas P. Moard, MD. This matter will be deliberated in closed session.

KEVIN A LANG, MD
09 MED 102

Attorney Sandra Nowak, DOE, presented a proposed stipulation, final decision and order in the disciplinary proceedings against Kevin A. Lang, MD. This matter will be deliberated in closed session.

DANIEL M JOYCE, MD
09 MED 227

Attorney Pamela Stach, DOE, presented a proposed stipulation, final decision and order in the disciplinary proceedings against Daniel M. Joyce, MD. This matter will be deliberated in closed session.

MARK H DECKER, MD
07 MED 277

Attorney Pamela Stach, DOE, presented a proposed stipulation, final decision and order in the disciplinary proceedings against Mark H. Decker, MD. This matter will be deliberated in closed session.

**DAVID W RENTMEESTER, MD
09 MED 227**

Attorney Pamela Stach, DOE, presented a proposed stipulation, final decision and order in the disciplinary proceedings against David W. Rentmeester, MD. This matter will be deliberated in closed session.

**PAUL E HUEPENBECKER, MD
07 MED 190/08 MED 043**

Attorney Sandra Nowack, DOE, presented a proposed stipulation, final decision and order and consideration of issuing a complaint in the disciplinary proceedings against Paul E. Huepenbecker, MD. Dr. Huepenbecker was represented by Attorney Patricia Epstein. This matter will be deliberated in closed session.

**PRESENTATION OF PETITION FOR SUMMARY SUSPENSION AND
CONSIDERATION OF COMPLAINT**

KENNETH J KURT, DO

Attorney Jack Zwieg, DOE, presented a petition for summary suspension and consideration of issuing a complaint in the disciplinary proceedings against Kenneth J. Kurt, DO. Dr. Kurt also appeared to respond to the petition for summary suspension. This matter will be deliberated in closed session.

**UNIFORM APPLICATION (UA) REMOTE PRESENTATION BY THE FEDERATION
OF STATE MEDICAL BOARDS AND CONSIDERATION OF ADOPTION OF THE UA
AND
CHAD ZADRAZIL, DRL, AARA PORTABILITY GRANT COORDINATOR**

David Johnson, Sandra Waters and Nancy Kerr, FSMB, gave a remote webinar presentation on the uniform application. The Board questioned the fee that would be incurred by applicants who utilize the uniform application. Applicants would pay the UA fee directly to the FSMB and the licensure fees would be paid to the individual states. The advantage of the UA is that it can be used in multiple states and affords greater portability of licensure. It could also potentially decrease the amount of paperwork received at DRL. The next step in the process is to develop, in conjunction with the FSMB, the Wisconsin-specific addendum for the UA. Mr. Zadrazil provided a comparison of the UA to the Wisconsin application for a license to practice medicine and surgery.

MOTON: Ian Munro moved, seconded by Jerold Harter, to authorize the Department to offer the uniform application as one option for credentialing and to put a link to the uniform application on the DRL website. Motion carried unanimously.

Michael Berndt, Legal Counsel, suggested Chad Zadrazil contact the FSMB to discuss data sharing agreements and liability.

**PRESENTATION OF WISCONSIN'S PRESCRIPTION DRUG MONITORING
PROGRAM LEGISLATION
BY JEANNE SEVERSON, CHAIR, WISCONSIN PHARMACY EXAMINING BOARD**

Jeanne Severson, Chair, Wisconsin Pharmacy Examining Board (PEB), presented, via telephone, an overview of the prescription drug monitoring program (PDMP) legislation. This is a state-wide electronic database that collects designated data on controlled substances dispensed in Wisconsin. The PEB has been charged with starting the process of designing the PDMP for the State of Wisconsin. The Drug Enforcement Agency (DEA) is not involved with administration of any state PDMP's. The PDMP cannot be developed until grant monies are available. The PEB will keep the MEB apprised of their progress.

Ian Munro stated it would be extremely helpful if all pharmacies were linked by computer and would allow emergency departments and physicians to access this information. This would help to eliminate "doctor shopping" to obtain controlled substances. Guidelines will be established as to who can access the data and liability issues.

Drs. Munro and Osborn expressed an interest in being involved with the PDMP.

**INTRODUCTION OF JOHN KELLY, MD, CHAIR,
PATIENTS COMPENSATION PEER REVIEW COUNCIL**

John Kelly, Chair, Patients Compensation Peer Review Council (PCPRC), appeared via teleconference. The chair of the PCPRC is a non-voting member of the MEB. The PCPRC is not a disciplinary council; they review malpractice claims of any physician or nurse anesthetist who has had two or more claims paid out within a five-year period. The Council then makes a recommendation to the Patients Compensation Fund as to whether or not the practitioner should pay an additional assessment or surcharge to the Fund to cover expenses.

TELEMEDICINE PRACTICE QUESTIONS

Does a current Wisconsin medicine and surgery license (specifically for psychiatrists) cover the practice of telemedicine/telepsychiatry?

This question from Katie Reinfeldt, Rogers Memorial Hospital, does not specify the physical location of the physician and the patient.

- For a Wisconsin licensed psychiatrist located in WI and the patient is in WI, the answer is yes.
- For a Wisconsin licensed psychiatrist located outside of WI and the patient is in WI, the answer is yes, however the physician may be in violation of licensing requirements in the other jurisdiction.

- For a Wisconsin licensed psychiatrist located outside of WI and the patient is outside of WI, the answer is this is not applicable. The physician should be licensed in the appropriate jurisdiction.
- For a WI licensed psychiatrist located in WI and the patient is outside of WI, the answer is no.

There must be a valid doctor/patient relationship.

Prescribing Guidelines and Telemedicine

In response to the question from Dale Sisco, Sisco-Law Litigation and Mediation, Tampa, FL, the Wisconsin Medical Examining Board requires a WI license for all physicians who prescribe medications via telemedicine for Wisconsin residents.

Licensure for contract physicians at a U.S. military treatment facility in Wisconsin

In response to the email from Karen Lucas, Valor Network, more information is required before the Board can respond.

AARA PORTABILITY GRANT/BARRIERS TO LICENSURE- CHAD ZADRAZIL AND TOM RYAN

There is a meeting next week regarding the ARRA Portability Grant. Chad Zadrazil needs to report what the Board perceives as the biggest barriers to achieving true reciprocity and achieving the goals of the grant.

The Board noted the criminal background check (not in force in Wisconsin), the state open book exam, and the differences in the state residency requirement.

REPORT FROM MAINTENANCE OF LICENSURE WORK GROUP – RAYMOND MAGER, IAN MUNRO, CHAD ZADRAZIL, TOM RYAN

Tom Ryan reported that the Maintenance of Licensure work group and Dr. Musser had a teleconference. They discussed the FSMB's most recent publication on maintenance of licensure. The work group decided to postpone making any recommendations until the FSMB publishes guidelines in October. There are various groups and organizations that may be useful resources when setting up the maintenance of licensure program.

WIS. ADMIN. CODE MED CHAPTER 10 – BOARD REVIEW OF SCOPE STATEMENT FOR APPROVAL

The Board reviewed the scope statement to revise Wis. Admin. Code Chapter MED 10, relating to unprofessional conduct.

MOTION: Carolyn Bronston moved, seconded by Suresh Misra, to adopt and publish the scope statement to revise Wis. Admin. Code Chapter MED 10, relating to unprofessional conduct. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Board Website – Review of Chair’s Meeting with DRL Staff and Appoint Website Review Work Group

Tom Ryan reported there was a teleconference with Sujatha Kailas regarding the Board’s website. IT will contact GOOGLE to see if there is a possibility of creating a more direct access to the MEB on the DRL website. David Carlson is looking into the possibility of an abbreviated link to the MEB page. At present, the link is quite lengthy and for this reason it is not included in the Regulatory Digest.

Sujatha Kailas appointed herself, Sheldon Wasserman and LaMarr Franklin to the website review workgroup. The workgroup will meet after the August Board meeting.

BOARD CHAIR, VICE CHAIR AND PUBLIC MEMBER TRAINING – DECEMBER 2, 3 – MADISON, WI

The Board Chair, Vice Chair and public member training will be held at the Sheraton Inn, Madison, on December 2-3, 2010.

BOARD 2011 MEETING DATES – BOARD REVIEW

The Board reviewed the proposed 2011 meeting dates. The Board questioned the 9/14/2011 meeting date (the second Wednesday of the month). The Board is accustomed to all meetings on the third Wednesday of the month, with the exception of December.

SCREENING PANEL REPORT

LaMarr Franklin reported six cases were opened and one ten-day letter was sent.

SUMMER 2010 REGULATORY DIGEST – BOARD REVIEW OF DRAFT AND PROJECTED PUBLICATION TIMELINE

The Board reviewed the draft of the summer 2010 Regulatory Digest and made changes. Mike Berndt and Gene Musser will rewrite a portion of the Digest.

MOTION: Jude Genereaux moved, seconded by Ian Munro, to approve the digest for publication with amendments at the discretion of the Chair. Motion carried unanimously.

INFORMATIONAL ITEM(S)

Sujatha Kailas is unable to attend the September 15, 2010 meeting and Sandra Osborn will chair that meeting. Sandra Osborn will be out of town for two weeks, returning on August 10. During that time Sujatha Kailas will fill in as the IPP Liaison. Gene Musser attended the Opioid Prescribing Review Committee on July 14th.

PUBLIC COMMENTS

None.

OTHER BUSINESS

None.

RECESS TO CLOSED SESSION

MOTION: Ian Munro moved, seconded by Gene Musser, to convene to closed session to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b), and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll call: Carolyn Bronston-yes; James Conterato-yes; LaMarr Franklin-yes; Jerold Harter-yes; Sujatha Kailas-yes; Jack Lockhart-yes; Raymond Mager-yes; Suresh Misra-yes; Ian Munro-yes; Gene Musser-yes; Sandra Osborn-yes; Sheldon Wasserman-yes. Motion carried unanimously.

Open session recessed at 12:04 p.m.

RECONVENE IN OPEN SESSION

MOTION: Ian Munro moved, seconded by Jerold Harter, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 2:02 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION

MOTION: Gene Musser moved, seconded by Raymond Mager, to reaffirm all motions made in closed session. Motion carried unanimously.

PETITION TO VACATE ORDER AND ENTER A SUBSTITUTE ORDER

DAVID B GATTUSO, MD
06 MED 380

MOTION: Gene Musser moved, seconded by Jerold Harter, to adopt the Petition to Vacate Order and Enter a Substitute Order in the disciplinary proceedings against David B. Gattuso, MD. Motion carried unanimously.

PETITION FOR SUMMARY SUSPENSION

**KENNETH J KURT, DO
10 MED 186**

MOTION: Gene Musser moved, seconded by Ian Munro, to adopt the Petition for Summary Suspension and the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Kenneth J. Kurt, DO. Motion carried. LaMarr Franklin abstained.

MOTION: Gene Musser moved, seconded by Jerold Harter, to find probable cause to issue a complaint in the matter of **10 MED 186**. Motion carried. LaMarr Franklin abstained.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

**O'RELL WILLIAMS, MD
07 MED 424**

MOTION: Jerold Harter moved, seconded by Suresh Misra, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against O'Rell Williams, MD. Motion carried unanimously.

**S FOLLEY DUNNA, MD
07 MED 393**

MOTION: Jerold Harter moved, seconded by LaMarr Franklin, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against S. Folley Dunna, MD. Motion carried unanimously.

**LARRY B DEAN, MD
08 MED 261**

MOTION: Jerold Harter moved, seconded by Sheldon Wasserman, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Larry B. Dean, MD. Motion carried unanimously.

**ROMILA MUSHTAQ, MD
09 MED 070**

MOTION: Suresh Misra moved, seconded by Sheldon Wasserman, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Romila Mushtaq, MD. Motion carried unanimously.

DOUGLAS P MOARD, MD
08 MED 266

MOTION: James Conterato moved, seconded by Carolyn Bronston, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Douglas P. Moard, MD. Motion carried unanimously.

DANIEL M JOYCE, MD
09 MED 227

MOTION: Jerold Harter moved, seconded by Carolyn Bronston, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Daniel M. Joyce, MD. Motion carried. Ian Munro was excused during deliberation and abstained from voting.

MARK H DECKER, MD
07 MED 277

MOTION: Sheldon Wasserman moved, seconded by Jack Lockhart, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Mark H. Decker, MD. Motion carried unanimously.

KEVIN A LANG, MD
09 MED 102

MOTION: Gene Musser moved, seconded by Jack Lockhart, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Kevin A. Lang, MD. Motion carried. James Conterato abstained.

DAVID W RENTMEESTER, MD
09 MED 227

MOTION: Jerold Harter moved, seconded by Jack Lockhart, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against David W. Rentmeester, MD. Motion carried. Ian Munro was excused during deliberations and abstained from voting.

PAUL E HUEPENBECKER, MD
07 MED 190/08 MED 043

MOTION: Sheldon Wasserman moved, seconded by LaMarr Franklin, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the

disciplinary proceedings against Paul E. Huepenbecker, MD. Motion carried with 7 ye a votes and 5 nea votes.

REQUEST FOR WAIVER OF 12 MONTHS OF APPROVED ACGME APPROVED POST GRADUATE TRAINING BASED ON EDUCATION AND TRAINING

SHAILE CHOUDHARY

MOTION: Jerold Harter moved, seconded by Suresh Misra, to grant the request for a waiver of the 12 months of approved ACGME approved post graduate training to Shaile Choudhary. Motion carried unanimously.

EDWARD R GRAVISS

MOTION: Gene Musser moved, seconded by Suresh Misra, to grant the request for a waiver of the 12 months of approved ACGME approved post graduate training to Edward R. Graviss. Motion carried unanimously.

ALI H HOUJAIJ

MOTION: Sandra Osborn moved, seconded by Ian Munro, to grant the request for a waiver of the 12 months of approved ACGME approved post graduate training to Ali H. Houjaij. Motion carried unanimously.

USAMA M KHAYYAL

MOTION: Ian Munro moved, seconded by LaMarr Franklin, to grant the request for a waiver of the 12 months of approved ACGME approved post graduate training to Usama M. Khayyal. Motion carried. Jack Lockhart and Gene Musser dissented.

LI-CHANG LIEN

MOTION: Jerold Harter moved, seconded by Suresh Misra, to grant the request for a waiver of the 12 months of approved ACGME approved post graduate training to Li-Chang Lien. Motion carried unanimously.

CONSIDERATION OF COMPLAINT

07 MED 208

MOTION: Raymond Mager moved, seconded by Jack Lockhart, to find probable cause to issue a complaint in the matter of **07 MED 208**. Motion carried unanimously.

MONITORING

THOMAS JOHNSON, MD

The Board tabled this matter and no Board action was taken. This case was referred back to the monitor.

JASON BELLAK, MD

MOTION: Carolyn Bronston moved, seconded by Jerold Harter, to grant the request for full licensure to Jason Bellak, MD. Motion carried unanimously.

JAMES LOGAN, MD

MOTION: Carolyn Bronston moved, seconded by Gene Musser, to grant the request for full licensure to James Logan, MD. Motion carried. Jack Lockhart abstained.

JUNE LEWANDOWSKI, MD

MOTION: Suresh Misra moved, seconded by James Conterato, to grant the request for full licensure to June Lewandowski, MD. Motion carried. Jack Lockhart abstained.

JENE VAN DEN HOUT, RCP

MOTION: Ian Munro moved, seconded by Sandra Osborn, to grant the request for a reduction in therapy from one time per week to 2 times per month. Motion carried unanimously.

JENNIFER NOLDEN, PA

MOTION: Jerold Harter moved, seconded by LaMarr Franklin, to remove the stay of suspension in the disciplinary proceedings against Jennifer Nolden, PA. Motion carried. Gene Musser abstained.

MOTION: Ian Munro moved, seconded by LaMarr Franklin, to inform Jennifer Nolden, PA, that she may not re-petition the Board until she has demonstrated full compliance with the Order for six continuous months. Motion carried. Gene Musser abstained.

CASE CLOSINGS

08 MED 147

MOTION: Ian Munro moved, seconded by Raymond Mager, to close case **08 MED 147** for no violation. Motion carried unanimously.

07 MED 293

MOTION: Jerold Harter moved, seconded by Suresh Misra, to close case **07 MED 293** for no violation. Motion carried unanimously.

08 MED 366

MOTION: Jerold Harter moved, seconded by Ian Munro, to close case **08 MED 366** for no violation. Motion carried unanimously.

10 MED 030

MOTION: Suresh Misra moved, seconded by Jerold Harter, to close case **10 MED 030** for no violation. Motion carried unanimously.

09 MED 410

MOTION: Raymond Mager moved, seconded by LaMarr Franklin, to close case **09 MED 410** for insufficient evidence. Motion carried. James Conterato and Sheldon Wasserman abstained.

09 MED 072

MOTION: Jerold Harter moved, seconded by Jack Lockhart, to close case **09 MED 072** for insufficient evidence. Motion carried unanimously.

RATIFYING LICENSES AND CERTIFICATES

MOTION: Ian Munro moved, seconded by Raymond Mager, to ratify all licenses and certificates presented. Motion carried unanimously.

ADJOURNMENT

MOTION: LaMarr Franklin moved, seconded by Ian Munro, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:05 p.m.

THE NEXT BOARD MEETING IS AUGUST 18, 2010