

**MEDICAL EXAMINING BOARD
MEETING MINUTES
MARCH 20, 2013**

PRESENT: James Barr; Sridhar Vasudevan, MD; Kenneth Simons, MD; Jude Genereaux; Greg Collins; Sheldon Wasserman, MD; Timothy Westlake, MD; Rodney Erickson, MD; Suresh Misra, MD, Timothy Swan, MD; Mary Jo Capodice, DO, Russell Yale, MD

ABSENT: Gene Musser, MD

STAFF: Tom Ryan, Executive Director; Matthew C. Niehaus, Bureau Assistant; Pamela Stach, Legal Counsel (*Closed Session*); and other Department Staff

CALL TO ORDER

Dr. Sheldon Wasserman, Chair, called the meeting to order at 8:07 a.m. A quorum of twelve (12) members was present.

ADOPTION OF AGENDA

- **Item Q (closed session) – REMOVE “Q-1: Yücel Yankol, M.D. – Oral Interview for Visiting Professor Licensure”**
- **Item U (closed session) – REMOVE “U.2.a: Petition for Review of Order Denying Motion for Summary Judgment in Case Number 11 MED 123, Peri L. Aldrich, M.D.”**
- **Item U (closed session) – ADD “U.3.e: Jesse J. Van Brommel, M.D. (12 MED 330)”**
- **Item U (closed session) – ADD “U.3.f: Dorothy A. Novak, M.D. (12 MED 303)”**

MOTION: Dr. Suresh Misra moved, seconded by Dr. Kenneth Simons, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF FEBRUARY 20, 2013

MOTION: Dr. Kenneth Simons moved, seconded by, Dr. Suresh Misra to approve the minutes of February 20, 2013 as published. Motion carried unanimously.

APPROVAL OF MINUTES OF MARCH 5, 2013

MOTION: Dr. Timothy Swan moved, seconded by, Dr. Mary Jo Capodice to approve the minutes of March 5, 2013 as published. Motion carried unanimously.

EXECUTIVE DIRECTOR MATTERS

Spring Newsletter Content Review

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to approve the Spring Newsletter content as amended and to designate Dr. Sheldon Wasserman to approve the final draft of the Spring Newsletter on behalf of the Board. Motion carried unanimously.

DISCUSSION AND CONSIDERATION OF CONTINUING EDUCATION AUDIT

MOTION: Dr. Kenneth Simons moved, seconded by Mr. Greg Collins, to request DSPS staff appear before the Board at the April 24, 2013 meeting to discuss an audit of continuing medical education. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Med 10 Public Hearing

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Kenneth Simons, to remove the comma after panel in MED 10.03(2)(a), paragraph 1 and change the reference of 655.02 to 655.42. Motion carried unanimously.

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Suresh Misra, to adopt the Clearinghouse suggestion to move 10.03(2)(g)(4) to its own subsection, rather than a fourth subdivision.. Motion carried unanimously.

MOTION: Ms. Jude Genereaux moved, seconded by Dr. Suresh Misra, to change MED 10.03(2)(L) to specifically refer to physicians. Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to change the language in 10.03(3)(c) from “adverse action” to “adverse determination”. Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to interpret the language from MED 10.03(3)(i) to apply to other states as well as Wisconsin. Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Suresh Misra, to accept Clearinghouse language in 10.03(3)(i)(1) . Motion carried unanimously.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Rodney Erickson, to accept all Clearinghouse recommendations except those already acted upon and those regarding supervisory roles and definitions. Motion carried unanimously.

Revision of Physician's Duty to Report Law Summary

MOTION: Dr. Timothy Swan moved, seconded by Dr. Suresh Misra, to adopt the Physician's Duty to Report Law Summary and post it to the DSPS website. Motion carried unanimously.

SCREENING PANEL REPORT

Mr. Jim Barr reported fifteen (15) cases were closed. Nine (9) cases were opened.

CLOSED SESSION

MOTION: Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, to convene to closed session pursuant to Wisconsin State statutes 19.85(1)(a)(b)(f) and (g) for the purpose of conducting appearances, reviewing monitoring requests, requests for licensure, deliberate on stipulations, administrative warnings, proposed decisions and orders, consulting with Legal Counsel and Division of Legal Services and Compliance case status reports. Dr. Sheldon Wasserman read the language of the motion. The vote of each member was ascertained by voice vote. James Barr-yes; Jade Genereaux-yes; Russell Yale, MD-yes; Greg Collins-yes; Timothy Westlake, MD-yes; Rodney Erickson, MD-yes; Suresh Misra, MD-yes; Timothy Swan, MD-yes; Kenneth Simons, MD-yes; Mary Jo Capodice, DO-yes; and Sheldon Wasserman, MD-yes. Motion carried unanimously.

The Board convened into Closed Session at 12:15 p.m.

CREDENTIALING MATTERS

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Suresh Misra, to find that Nike Mourikes, M.D.'s post-graduate training is equivalent to a year of ACGME accredited training and grants a license after all other requirements are met. Motion carried unanimously.

MOTION: Dr. Jude Genereaux moved, seconded by Dr. Kenneth Simons, to reject the stipulation in the matter of Ahmad A. Farid, M.D. Motion carried unanimously.

MONITORING MATTERS

MOTION: Dr. Timothy Westlake moved, seconded by Dr. Jude Genereaux, to terminate the limitations and restore full licensure in the matter of Eugene C. Rigstad, M.D. Motion carried unanimously.

Dr. Suresh Misra left the meeting at 1:28 P.M.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, to deny the request of John M. Hale for interruption in drug screens. **Reason for Denial:** Non-compliance with and insufficient time under Board Order. Motion carried unanimously.

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Timothy Westlake, to grant the request of Bradley J. Schingen, M.D. for full licensure. Motion carried unanimously.

COMPLAINTS OF PROBABLE CAUSE

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Sridhar Vasudevan, to find probable cause to believe that Respondent is guilty of unprofessional conduct and to issue a complaint in the matter of 12 MED 339 – L.G. Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to find probable cause to believe that Respondent is guilty of unprofessional conduct and to issue a complaint in the matter of 12 MED 245 – D.H. Motion carried unanimously.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Mary Jo Capodice, to find probable cause to believe that Respondent is guilty of unprofessional conduct and to issue a complaint in the matter of 13 MED 005 – D.S. Motion carried unanimously.

DELIBERATION OF PROPOSED STIPULATIONS AND INTERIM DECISIONS AND ORDERS

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Timothy Westlake, to accept the stipulation and issue the Interim Decision and Order in case number 12 MED 289 – Levi Leong, M.D. Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Rodney Erickson, to accept the stipulation and issue the Interim Decision and Order in case number 13 MED 005 – D.S. Motion carried unanimously.

DELIBERATION OF PROPOSED STIPULATIONS AND FINAL DECISIONS AND ORDERS

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Timothy Westlake, to reject the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against William B. Lyles, M.D. (09 MED 197.) The Board requests all terms remain the same and the reprimand be replaced with a suspension. Motion carried.

Drs. Mary Jo Capodice, Sridhar Vasudevan, Timothy Swan, and Rodney Erickson voted nay in the matter of William B. Lyles, M.D. (09 MED 197)

MOTION: Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Therese J. Gesteland, M.D. (12 MED 163.) Motion carried unanimously.

MOTION: Dr. Timothy Westlake moved, seconded by Dr. Mary Jo Capodice, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Kevin A. Weidman, M.D. (12 MED 165.) Motion carried.

Dr. Sheldon Wasserman recused himself and left the room during deliberation and voting in the matter of Kevin A. Weidman, M.D. (12 MED 165). Dr. Kenneth Simons acted as Chair.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Timothy Westlake, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against James Turek, M.D. (12 MED 167.) Motion carried unanimously.

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Kenneth Simons, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against John W. Zwiacher., M.D. (12 MED 187.) Motion carried.

Dr. Timothy Swan Voted Nay in the matter of John W. Zwiacher, M.D. (12 MED 187).

MOTION: Dr. Timothy Westlake moved, seconded by Mr. Greg Collins, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Amit Waghray, M.D. (12 MED 240.) Motion carried unanimously.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Charlotte E. Hovey, M.D. (12 MED 290.) Motion carried unanimously.

MOTION: Dr. Timothy Westlake moved, seconded by Dr. Sridhar Vasudevan, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order on reconsideration of the stipulation signed on January 16, 2013 in the matter of disciplinary proceedings against Dorothy A. Novak, M.D. (12 MED 303.) Motion carried unanimously.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Timothy Westlake, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Jesse J. Van Brommel, M.D. (12 MED 330.) Motion carried.

Dr. Kenneth Simons recused himself and left the room during deliberation and voting in the matter of Jesse J. Van Brommel, M.D. (12 MED 330).

MOTION: Dr. Kenneth Simons moved, seconded by Mr. James Barr, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Gerard N. Kiernan, M.D. (12 MED 367.) Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Mr. James Barr, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Morgan Budde, M.D. (12 MED 387.) Motion carried unanimously.

DELIBERATION OF ADMINISTRATIVE WARNINGS

MOTION: Dr. Sridhar Vasudevan moved, seconded by Mr. James Barr, to issue an administrative warning in the matter of case number 12 MED 253. Motion carried unanimously.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, to issue an administrative warning in the matter of case number 12 MED 296. Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Timothy Westlake, to issue an administrative warning in the matter of case number 12 MED 393. Motion carried.

Mary Jo Capodice, D.O. recused herself and left the room from deliberation and voting in 12 MED 393.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Timothy Westlake, to issue an administrative warning in the matter of case number 12 MED 412. Motion carried.

Mary Jo Capodice, D.O. recused herself and left the room from deliberation and voting in 12 MED 412.

CASE CLOSINGS

MOTION: Ms. Jude Genereaux moved, seconded by Dr. Kenneth Simons, to close the case #13 MED 002 for No Violation (NV). Motion carried unanimously.

MOTION: Dr. Timothy Westlake moved, seconded by Dr. Timothy Swan, to close the case #11 MED 044 for Prosecutorial Discretion (P6). Motion carried unanimously.

MOTION: Dr. Timothy Westlake moved, seconded by Mr. Greg Collins, to close the case #12 MED 246 (D.O.) for No Violation (NV). Motion carried unanimously.

MOTION: Dr. Timothy Westlake moved, seconded by Dr. Russell Yale, to close the case #12 MED 247 (M.M.) for No Violation (NV). Motion carried unanimously.

MOTION: Ms. Jude Genereaux moved, seconded by Dr. Russell Yale, to close the case #12 MED 343 for No Violation (NV). Motion carried unanimously.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, to close the case #12 MED 304 for No Violation (NV). Motion carried unanimously.

RATIFY ALL LICENSES AND CERTIFICATES

MOTION: Dr. Kenneth Simons moved, seconded by Mr. James Barr, to ratify all licenses and certificates as issued. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Dr. Timothy Swan moved, seconded by Dr. Russell Yale, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 3:26 p.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Dr. Timothy Swan moved, seconded by Dr. Timothy Westlake, to affirm all motions made in closed session. Motion carried unanimously.

ADJOURNMENT

MOTION: Dr. Timothy Swan moved, seconded by Dr. Timothy Westlake, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:26 p.m.