

**MEDICAL EXAMINING BOARD
MEETING MINUTES
August 20, 2014**

PRESENT: Mary Jo Capodice, D.O; Greg Collins; Rodney Erickson, M.D.; Suresh Misra, M.D. (*arrived to the meeting at 8:02 a.m.*); Michael Phillips, M.D.; Kenneth Simons, M.D.; Timothy Swan, M.D.; Timothy Westlake, M.D. (*arrived to the meeting at 9:14 a.m.*); Russell Yale, M.D.; and Robert Zondag

EXCUSED: James Barr; Carolyn Ogland, M.D.; Sridhar Vasudevan, M.D.

STAFF: Tom Ryan, Executive Director; Pam Stach, Legal Counsel; Jelena Gagula, Bureau Assistant; Taylor Thompson, Bureau Assistant; and other Department staff

CALL TO ORDER

Kenneth Simons, Chair, called the meeting to order at 8:00 a.m. A quorum of eight (8) members was confirmed.

ADOPTION OF AGENDA

MOTION: Greg Collins moved, seconded by Robert Zondag, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Timothy Swan moved, seconded by Michael Phillips, to approve the minutes of July 16, 2014 as published. Motion carried unanimously.

**PRESENTATION OF THE PETITION FOR REHEARING AND PETITION FOR STAY OF
ORDER – DR. ZULFIQAR ALI**

Pam Stach, Legal Counsel, recused herself and left the room for the Presentation of the Petition for Rehearing and Petition for Stay of Order – Dr. Zulfiqar Ali.

FEDERATION OF STATE MEDICAL BOARDS (FSMB) MATTERS

Dr. Russell Yale recommended a joint venture between the Medical Examining Board and the Pharmacy Examining Board as it relates to the safe prescribing of opioid analgesics item.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

MOTION: Russell Yale moved, seconded by Suresh Misra, to accept all Clearinghouse comments for CR 14-040 relating to Physicians and Informed Consent. Motion carried unanimously.

MOTION: Timothy Swan moved, seconded by Mary Jo Capodice, to request that DSPS Staff draft a Scope Statement on Wisconsin Administrative Code Med 1 relating to 2013 Wisconsin Act 114. Motion carried unanimously.

LEGAL REPRESENTATIVE PRESENT DURING TWO PERSON ORAL EXAMINATION

MOTION: Suresh Misra moved, seconded by Michael Phillips, to **deny** the presence of legal representation during the administration of a Two Person Oral Exam. Motion carried unanimously.

CLOSED SESSION

MOTION: Timothy Swan moved, seconded by Russell Yale, to convene to Closed Session to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 448.02 (8), Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Mary Jo Capodice – yes; Greg Collins – yes; Rodney Erickson – yes; Suresh Misra – yes; Michael Phillips – yes; Kenneth Simons – yes; Timothy Swan – yes; Russell Yale – yes; and Robert Zondag – yes. Motion carried unanimously.

The Board convened into Closed Session at 9:10 a.m.

Dr. Timothy Westlake arrived to the meeting at 9:14 a.m.

RECONVENE TO OPEN SESSION

MOTION: Suresh Misra moved, seconded by Robert Zondag, to reconvene in Open Session at 11:44 A.M. Motion carried unanimously.

FULL BOARD ORAL EXAMINATION OF CANDIDATES FOR LICENSURE

MOTION: Michael Phillips moved, seconded by Rodney Erickson, to find that Justin Ribault, M.D., **passed** the MEB Full Board Oral Examination. Motion carried unanimously.

MOTION: Suresh Misra moved, seconded by Michael Phillips, to **grant** the request of Justin Ribault, M.D. for Full Licensure, once all other requirements are met. Motion carried unanimously. *9-0 Vote.*

DELIBERATION OF THE PETITION FOR REHEARING – DR. ZULFIQAR ALI

Pam Stach, Legal Counsel, recused herself and left the room for the Presentation of the Petition for Rehearing and Petition for Stay of Order – Dr. Zulfiqar Ali.

MOTION: Michael Phillips moved, seconded by Greg Collins, to **deny** the Petition for Rehearing of Dr. Zulfiqar Ali. **Reason for Denial:** Dr. Ali did not satisfy the requirements needed for rehearing as found in Wis. Stats. § 227.49(3). Motion carried unanimously.

MOTION: Mary Jo Capodice moved, seconded by Suresh Misra, to **deny** the Petition for Stay of Suspension of Dr. Zulfiqar Ali. **Reason for Denial:** Dr. Ali did not satisfy the requirements set forth in the Board Order. Should Dr. Ali petition for a Stay of Suspension in the future, he must first attach proof of compliance with the Board Order 0003287 before the Board will consider the petition. Motion carried unanimously.

MONITORING MATTERS

STEVEN L. ARMUS, M.D. – REQUESTING FULL UNLIMITED LICENSURE

MOTION: Suresh Misra moved, seconded by Timothy Westlake, to **grant** the request of Steven L. Armus, M.D. for return of full licensure. Motion carried unanimously.

THOMAS A. O’CONNOR, M.D. – REQUESTING FULL UNLIMITED LICENSURE

MOTION: Greg Collins moved, seconded by Timothy Swan, to **deny** the request of Thomas A. O’Connor, M.D. for return of full licensure. **Reason for Denial:** The limitations were intended to be permanent. Motion carried. *Mary Jo Capodice voted no.*

PRESENTATION AND DELIBERATION ON PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS BY THE DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC)

JEFFREY J. ENTRESS, M.D. – 13 MED 199

Dr. Michael Phillips recused himself and left the room for deliberation and voting in the matter concerning Jeffrey J. Entress, M.D.

MOTION: Greg Collins moved, seconded by Mary Jo Capodice, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Jeffrey J. Entress, M.D., DLSC case number 13 MED 199. Motion carried unanimously.

VIBHA AGRAWAL, M.D. – 13 MED 225

MOTION: Mary Jo Capodice moved, seconded by Michael Phillips, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Vibha Agrawal, M.D., DLSC case number 13 MED 225. Motion carried. *Greg Collins voted no.*

JAMES J. LOGAN, M.D. – 13 MED 260

MOTION: Mary Jo Capodice moved, seconded by Michael Phillips, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against James J. Logan, M.D., DLSC case number 13 MED 260. Motion carried unanimously.

JOHN W.P. HORAN, M.D. – 13 MED 262

MOTION: Timothy Westlake moved, seconded by Suresh Misra, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against John W.P. Horan, M.D., DLSC case number 13 MED 262. Motion carried unanimously.

DONALD M. JACOBSON, M.D. – 13 MED 275

MOTION: Mary Jo Capodice moved, seconded by Russell Yale, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Donald M. Jacobson, M.D., DLSC case number 13 MED 275. Motion carried unanimously.

KEVIN C. NEPSUND, M.D. – 14 MED 028

MOTION: Suresh Misra moved, seconded by Timothy Westlake, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Kevin C. Nepsund, M.D., DLSC case number 14 MED 028. Motion carried unanimously.

FRANCIS E. HARRINGTON, M.D. – 14 MED 055

MOTION: Mary Jo Capodice moved, seconded by Greg Collins, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Francis E. Harrington, M.D., DLSC case number 14 MED 055. Motion carried unanimously.

JAMES O. STEELE, M.D. – 14 MED 066

MOTION: Timothy Westlake moved, seconded by Suresh Misra, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against James O. Steele, M.D., DLSC case number 14 MED 066. Motion carried unanimously.

RICHARD N. BARNEY, M.D. – 14 MED 153

MOTION: Michael Phillips moved, seconded by Rodney Erickson, to **table** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Richard N. Barney, M.D., DLSC case number 14 MED 153. Motion carried unanimously.

**PRESENTATION AND DELIBERATION ON COMPLAINTS FOR
DETERMINATION OF PROBABLE CAUSE**

STEVEN G. MERESS, M.D. – 11 MED 363

MOTION: Robert Zondag moved, seconded by Russell Yale, to find probable cause to believe that Steven G. Meress, M.D., DLSC case number 11 MED 363, is guilty of unprofessional conduct, and therefore to issue the Complaint and hold a hearing on such conduct pursuant to Wis. Stat. § 448.02(3)(b). Motion carried unanimously.

PRESENTATION AND DELIBERATION ON ADMINISTRATIVE WARNINGS

MOTION: Suresh Misra moved, seconded by Michael Phillips, to issue administrative warnings and to close the cases in the matter of case numbers:

- 1) 13 MED 008 (B.N.)
- 2) 13 MED 323 (D.L.Z.)
- 3) 13 MED 323 (R.J.T.)
- 4) 13 MED 448 (R.N.)
- 5) 13 MED 453 (B.C.)
- 6) 13 MED 453 (J.H.)
- 7) 13 MED 529 (A.M.D.)
- 8) 14 MED 160 (K.F.K.)

Motion carried unanimously.

**SEEKING EQUIVALENCY FOR THE 12 MONTHS OF ACGME APPROVED POST-
GRADUATE TRAINING BASED ON EDUCATION AND TRAINING
NITINRAI PANDYA, M.D.**

MOTION: Rodney Erickson moved, seconded by Russell Yale, to find that the training and education of Nitinrai Pandya, M.D. is **not** substantially equivalent to the requirements set forth in Wis. Stat. § 448.05(2). Motion carried. *Michael Phillips and Mary Jo Capodice voted no.*

CASE CLOSING(S)

MOTION: Suresh Misra moved, seconded by Timothy Westlake, to close the following cases according to the recommendations by the Division of Legal Services and Compliance:

- 1) 13 MED 089 (M.B.B.) for prosecutorial discretion (P2)
 - 2) 13 MED 089 (H.K.) for prosecutorial discretion (P3)
 - 3) 13 MED 269 (D.H., R.M., D.P., Q.Q., and A.S.) for no violation (NV)
 - 4) 13 MED 453 (P.S.) for no violation (NV)
 - 5) 13 MED 454 (L.P.S.) for no violation (NV)
 - 6) 13 MED 484 (T.A.Z. and K.M.S.) for no violation (NV)
 - 7) 13 MED 495 (C.L.) for no violation (NV)
 - 8) 14 MED 067 (K.A.W.) for prosecutorial discretion (P7)
 - 9) 14 MED 223 (G.D.M.) for prosecutorial discretion (P2)
- Motion carried unanimously.

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

MOTION: Michael Phillips moved, seconded by Mary Jo Capodice, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

DELEGATION OF RATIFICATION OF EXAMINATION RESULTS AND RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: Suresh Misra moved, seconded by Robert Zondag, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Mary Jo Capodice moved, seconded by Robert Zondag, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:45 a.m.