



STATE OF MICHIGAN

RICK SNYDER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF HEALTH CARE SERVICES

MIKE ZIMMER
DIRECTOR

MICHIGAN BOARD OF MEDICINE MARCH 18, 2015 MEETING

APPROVED MINUTES

In accordance with the Open Meetings Act, 1976, PA 267, as amended, the Michigan Board of Medicine met in regular session on March 18, 2015, at the Ottawa Building, 611 West Ottawa Street, Upper Level Conference Center, Conference Room 3, Lansing, Michigan.

CALL TO ORDER

Richard Burney, M.D., Chairperson, called the meeting to order at 10:13 a.m.

ROLL CALL

Members Present: Richard Burney, M.D., Chairperson
Peter Graham, M.D., Vice-Chairperson
Mohammed Arsiwala, M.D.
Sandra Howell, M.D.
Lisa Huta, Public Member
Renee Johnston, Public Member
Kara Morley-Smolek, M.D.
Louis Prues, Ph.D, Public Member
James Rogers, M.D.
James Sondheimer, M.D.
Dennis Szymanski, M.D.
Terri Tahnoose, Public Member

Members Absent: Luis Avila, J.D.
Richard Bates, M.D.
Stacey Frankovich, Public Member
Cynthia Pasky, Public Member
Rosalie Tocco-Bradley, M.D., Ph.D
Gail Torreano, Public Member

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Staff Present: Shellayne Grimes, Secretary, Policy, Rules and Board Support Section
Michael Siracuse, Analyst, Policy, Rules and Board Support Section
Norene Lind, Manager, Policy, Rules and Board Support Section
Steve Creamer, Manager, Health Care Information and Training Section
(left at 10:43 a.m.)
Michele Wagner-Gutkowski, Assistant Attorney General

Others Present: Lynn Mills
Andrew Schepers, MSMS
Delisa Glenn

APPROVAL OF MINUTES

MOTION by Prues, seconded by Szymanski, to approve the minutes of the January 21, 2015 Board meeting, as presented.

MOTION PREVAILED

APPROVAL OF AGENDA

MOTION by Szymanski, seconded by Howell, to approve the agenda, as presented.

MOTION PREVAILED

REGULATORY CONSIDERATION

None

COMMITTEE REPORTS

INVESTIGATIONS AND ALLEGATIONS

Rogers reported that the Investigations and Allegations (I&A) Committee reviewed 24 files in February, 2015. Seven files were authorized for investigation, and 17 files were closed.

For March, the I&A Committee reviewed 38 files. Sixteen files were authorized for investigation, and 22 files were closed. Thirteen files will be reviewed following the conclusion of the full Board meeting.

OPERATIONS COMMITTEE

Burney reported that three members of the Operations Committee attended an informational meeting with Acting Bureau Director Kim Gaedeke, an Attorney General representative, and bureau staff prior to the Board meeting. This was an opportunity to

meet Ms. Gaedeke and to discuss ways the Board and Bureau might work together to improve licensing, investigations, and disciplinary processes.

DISCIPLINARY SUBCOMMITTEE

Johnston reported that the Disciplinary Subcommittee (DSC) met today and considered 35 matters; one (1) Request for Reconsideration, ten (10) Administrative Complaints, twenty-one (21) Consent Orders and Stipulations, and three (3) Requests for Dismissal. The Disciplinary Subcommittee will reconvene after the adjournment of the full Board meeting to finish its agenda.

On behalf of the DSC, Johnston requested information regarding the assessment of fines by board conferees. Burney addressed the issue and shared past history on the subject.

Additionally, the DSC requested a presentation on the Health Professional Recovery Committee (HPRC). Staff will ask the Bureau's HPRP representative to be present at the next meeting to answer questions and to update the Board regarding the program.

CHAIRPERSON'S REPORT

Burney provided the following summary of Board of Medicine activity between January 18, 2015 and March 15, 2015. He handled 43 matters, compared to 38 matters last year during the same interval, as follows:

Type	Number
• Summary suspensions	2
• Conferee assignments	2
• Advice/discuss sanction recommendations	26
• Advice regarding filing/pursuing complaint	3
• Approve CME and general supervision requests	6
• Compliance conference	0
• Review/approve monitoring plans/reports	2
• Miscellaneous matters	2

*There were 5 additional automatic summary suspensions based on felony convictions.

His report also contained two graphs; one showing the trend in the number of conferee assignments that have been made over time; and the other showing the trend in the number of board questions and items he has had to address over time.

Regarding physicians who have been disciplined and are not improving in their practice of medicine, Burney questioned whether or not additional sanctions could be added. Wagner-Gutkowski explained that additional sanctions could not be added to an existing

complaint, but a new complaint could be filed against the physician. This process provides the physician with his/her due process rights.

OLD BUSINESS

None

NEW BUSINESS

Advisory Committee on Pain & Symptom Management – Appointment

Steve Creamer, Manager of the Health Care Information and Training Section, referenced a Memorandum from Susan Affholter, Pain Management and Palliative Care Coordinator, pertaining to Appointments/Reappointments to the Advisory Committee on Pain and Symptom Management (ACPSM). The Memorandum explains the duties of appointees, noting the expiration date of both current members as June 30, 2015. Both of the board's current representatives, Jeanne Lewandoski, MD and Daniel Berland, MD, have expressed an interest in being reappointed for another 2-year term. Any additional nominations should be submitted to Steve Creamer at CreamerS1@michigan.gov by March 27, 2015. Appointments will be voted on at the next board meeting on May 20, 2015.

Additionally, Creamer offered board members a copy of the new pain booklet and other pertinent handouts.

2015 Federation of State Medical Boards – Proposed Resolutions

Burney provided an overview of the five (5) Resolutions that will be addressed at the Federation of State Medical Boards (FSMB) House of Delegates Meeting on April 25, 2015. Burney noted that he and the Chairperson of the Michigan Board of Osteopathic Medicine will represent Michigan as the delegates who will vote on the following FSMB Resolutions:

- **15-1:** Consistency in the Format of Electronic Medical Records to Enhance Readability and usability
- **15-2:** Revision of the FSMB Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain in 2013
- **15-3:** Developing Model Language in Board Actions and Coordinating with ABMS on the Effects of Board Actions on Specialty Certification
- **15-4:** Task Force to Study Access by Regulatory Boards to Electronic Medical Records
- **15-5:** Best Practices in the Use of Social Media by Medical and Osteopathic Boards

Burney, Tahnoose, Prues, Norene Lind and Joe Campbell will be attending the FSMB Annual Meeting in Fort Worth, Texas from April 23-25, 2015.

Department Update

Regarding the matter of *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, Lind provided board members with a March 4, 2015 Morgan Lewis Publications summary of a U.S. Supreme Court opinion, "ruling that a state professional board controlled by active market participants must be actively supervised by a state to enjoy protection from federal antitrust scrutiny." The court ruled that because the NC board was not actively supervised by the state, attempts by the board to prevent non-dentists from engaging in the practice of teeth-whitening were anticompetitive.

Burney, Prues and Lind participated in a teleconference hosted by the Federation of State Medical Boards, where they were able to hear board attorneys from across the country discuss the legal implications of the case. Prues and Lind both felt that the laws that shape Michigan's advisory board structure provide a good checks and balance system, with plenty of state oversight and public protections built into it.

Lind also provided the Board with examples from current Michigan law that underscore state oversight of primary board functions, referencing MCL 330.3101 and 333.16216.

The outcome of this U.S. Supreme Court case may likely require many states to restructure the laws that establish board duties and oversight.

Lind announced that the Bureau will be reorganized during 2015 to combine regulation of the health professions specified in the Public Health Code with the occupations specified by the Occupational Code (i.e. accountants, realtors, cosmetologists, etc.).

PUBLIC COMMENT

None

ANNOUNCEMENTS

The next regularly scheduled meeting will be held on May 20, 2015 at 10:00 a.m., at the Ottawa Building, 611 West Ottawa Street, Upper Level Conference Center, Conference Room 3, Lansing, Michigan.

ADJOURNMENT

MOTION by Howell, seconded by Arsiwala, to adjourn the meeting at 11:11 a.m.



Richard Burney, M.D., Chairperson



Shellayne Grimes, Board Secretary

5/20/2015
Date Minutes Approved

3/18/2015
Date Minutes Prepared