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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF HEALTH CARE SERVICES

STEVE ARWOOD  
DIRECTOR

## MICHIGAN BOARD OF MEDICINE NOVEMBER 20, 2013 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 November 20, 2013, 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 10:10 a.m.

### ***ROLL CALL***

***Members Present:*** Richard Burney, M.D., Chairperson  
Peter Graham, M.D., Vice-Chairperson  
Mohammed Arsiwala, M.D.  
Richard Bates, M.D.  
Oliver Cameron, M.D., Ph.D  
David Dull, M.D.  
Cheryl Graham-Solomon, Public Member (arrived at 10:13 a.m.)  
Vivian Leung, Public Member  
Louis Prues, Ph.D, Public Member  
Meghan Riley, PA-C  
James Rogers, M.D.  
Leticia San Diego, Ph.D, Public Member  
Carol Sheridan, Public Member  
Dennis Szymanski, M.D.  
Rosalie Tocco-Bradley, M.D., Ph.D  
David Weingarden, M.D.

***Members Absent:*** Theresa Fraley, Public Member  
Cynthia Pasky, Public Member  
Gail Torreano, Public Member

**Staff Present:** Shellayne Grimes, Secretary, Policy, Rules and Board Support Section  
Karen Carpenter, Analyst, Policy, Rules and Board Support Section  
Norene Lind, Manager, Policy, Rules and Board Support Section  
Joe Campbell, Enforcement Division Director (left at 10:50 a.m.)  
Kiran Parag, Analyst, Enforcement Division  
Michelle Wagner-Gutkowski, Assistant Attorney General

**Others Present:** Andrew Schepers, MSMS  
Carol Holmes, Attorney

Burney congratulated Sheridan for her first-time service as Chair of the Disciplinary Subcommittee.

## ***APPROVAL OF MINUTES***

*MOTION* by Dull, seconded by Graham, to approve the minutes of the September 18, 2013 Board meeting, as presented.

*MOTION PREVAILED*

## ***APPROVAL OF AGENDA***

*MOTION* by Rogers, seconded by Leung, to approve the agenda, as presented.

*MOTION PREVAILED*

## ***REGULATORY CONSIDERATIONS***

**David A. Rath, MD – Petition for Reinstatement**

*MOTION* by Weingarden, seconded by Arsiwala, to grant reinstatement to a full and unlimited license in the matter of David A. Rath, MD. Respondent shall be placed on probation for one year and must comply with the Public Health Code.

Discussion was held.

A roll call vote followed:

Yeas: Arsiwala, Bates, Riley, Cameron, Dull, Leung, Prues, San Diego, Sheridan, Szymanski, Tocco-Bradley, Weingarden, Graham, Burney

Nays: Graham-Solomon, Rogers

*MOTION PREVAILED*

## **COMMITTEE REPORTS**

### **INVESTIGATIONS AND ALLEGATIONS**

Rogers reported that the Investigations and Allegations Committee reviewed 34 files in October, 2013. Twelve files were authorized for investigation, and 22 files were closed. In November, 40 files were reviewed; nine files were authorized for investigation; 29 files were closed; and two files were returned for additional information.

### **OPERATIONS COMMITTEE**

Burney thanked Graham-Solomon for calling attention to a book written by Ruth Horowicz, Ph.D, entitled, *"In the Public Interest: Medical Licensing and the Disciplinary Process."* He circulated the book and recommended it to board members.

Burney reported that the Operations Committee met this morning with Karen Carpenter on staff. Discussions have now begun in earnest regarding revision of the Board's administrative rules. He indicated that a motion is needed to formally open the rules for revision. Many of the rules are outdated and statute calls for transparency in the rulemaking process.

Board members discussed the pros and cons of opening the Board's rules for revision.

MOTION by Prues, seconded by Szymanski, to open the administrative rules for revision.

A roll call vote was held:

Yeas: Bates, Riley, Cameron, Leung, Prues, Rogers, San Diego, Sheridan, Szymanski, Tocco-Bradley, Graham, Burney

Nays: Arsiwala, Dull, Graham-Solomon, Weingarden

**MOTION PREVAILED**

Graham-Solomon noted that Board members who had not completed two full terms could apply for reappointment.

### **DISCIPLINARY SUBCOMMITTEE**

Sheridan reported that the Disciplinary Subcommittee met prior to today's meeting and considered 26 matters.

Tocco-Bradley acknowledged the helpful assistance of the staff in the Attorney General's office in the disciplinary process.

## **CHAIRPERSON'S REPORT**

Burney reported that since the last board meeting, he reviewed 34 requests for advice or decisions; he also approved two summary suspensions, made 15 conferee assignments, advised on 11 sanction recommendations, and advised on six other matters.

Burney called attention to the increasing number of cases coming to the Board related to apparent over-prescribing or inappropriate prescribing of controlled drugs. He wondered if it might be possible for the Board to draft some form of guidance for how to efficiently manage these cases. Given the importance of this issue, he indicated his plan to invite to the March board meeting a representative from the Advisory Committee on Pain and Symptom Management and the MAPS program to describe how the Michigan Automated Prescription System (MAPS) surveillance program works, how cases are investigated, filtered, and submitted to the Board, and how best to educate physicians and the public regarding the prescribing of controlled substances.

Cameron commented that he thought there was still a lot of confusion among physicians as to whether using MAPS is mandated. Weingarden explained that the present law does not require practitioners to run MAPS reports on every patient before writing a controlled substance prescription, but that the MAPS program should be considered a valuable tool for use in patient care for protecting both individual patients and the public. Burney pointed out that the state of Indiana recently passed legislation requiring use of their MAPS-like program. Board members felt this was not necessary to accomplish the goals of the Public Health Code.

## **OLD BUSINESS**

None

## **NEW BUSINESS**

### **Media Protocols**

Burney and Lind reminded Board members that if they are contacted directly by members of the media regarding business or questions before the Board, they should not respond. Those requests should be forwarded to the Department. Carole Engle's office will respond to all media inquiries.

### **Contacts by Licensees Regarding Regulatory Matters**

Burney also reminded Board members that if they receive letters, e-mails, telephone calls, or other personal contacts by licensees regarding regulatory matters, they should decline any such offer of communication. Any response could be interpreted as introducing conflict of interest. All inquiries should be directed to the Department for handling. Burney also reminded Board members that they should recuse themselves from cases in which there is a real or perceived conflict of interest.

## Nominations

There will be no need for a nominations committee. An e-mail was sent to Board members seeking volunteers who would be willing to serve as Chairperson and Vice Chairperson. Responses have been received and will be presented to the Board at the January 15, 2014 meeting. Both Burney and Graham have indicated their willingness to continue in their present leadership positions.

Responding to Board member questions, Lind noted that no other Board has a Nominations Committee, and she believed the process could be handled fairly without such a committee.

## Department Update

Lind circulated a request for input by Debera H. Eggleston, M.D., Chief Medical Director, OMA, representing the Department of Community Health, Bureau of Program Operations and Quality Assurance. Dr. Eggleston is requesting input on a guidance document entitled, "*Michigan Quality Improvement Consortium: Diagnosis and Management of Attention Deficit Hyperactivity Disorder for Children and Adolescents (ADD and ADHD)*." No Board action or endorsement is needed. The document was shared so that Board members could provide individual feedback if they wished.

Lind also circulated to Board members the Senate Fiscal Agency analyses of six bills that have been introduced by the Legislature that could have an impact on health boards in some manner (SB 568, 569, 570, 575, 577, and 578). She reminded Board members that although no Board action could be taken on these bills, individuals wishing to stay abreast of the progress on these bills could do so by subscribing to the "bill tracking" feature at the following website: [www.legislature.mi.gov](http://www.legislature.mi.gov).

Arsiwala recommended that Board members also follow developments related to SB 2.

## Resolutions

Burney individually recognized and thanked each outgoing Board member for his or her service on the Board of Medicine.

**MOTION** by Graham, seconded by Arsiwala, to provide the following departing Board members with Resolutions recognizing their years of service:

Oliver G. Cameron, MD, Ph.D  
David L. Dull, MD  
Theresa Fraley, MD  
Vivian W. Leung, Public Member  
Leticia J. San Diego, Ph.D, Public Member  
Cheryl Graham-Solomon, Public Member  
David S. Weingarden, MD

## ***PUBLIC COMMENT***

None

## ***ANNOUNCEMENTS***

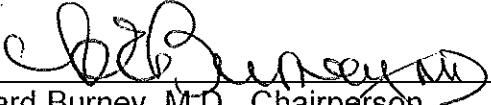
Burney read aloud portions of an e-mail from departing Board member, Theresa Fraley, who was unable to attend the meeting due to illness. Fraley wished to thank the Board and bid farewell.

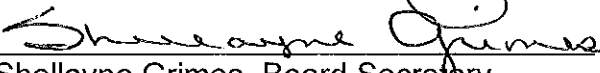
San Diego announced that she completed training certification for the "Scope of Pain: Safe and Competent Opioid Prescribing Education," sponsored through Boston University and held in East Lansing, Michigan. Her brief summary of the session was included in Board member folders.

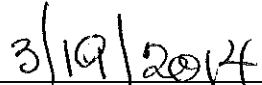
The next regularly scheduled meeting will be held on January 15, 2014 at 10:00 a.m., at the Ottawa Building, 611 West Ottawa Street, Upper Level Conference Center, Conference Room 3, Lansing, Michigan. Burney advised members that this meeting would be longer than usual, and could run into the afternoon, because they would be orienting new Board members.

## ***ADJOURNMENT***

*MOTION* by Rogers, seconded by Weingarden, to adjourn the meeting at 11:30 a.m.

  
Richard Burney, M.D., Chairperson

  
Shellayne Grimes, Board Secretary

  
Date Minutes Approved

  
Date Minutes Prepared