

**MARYLAND BOARD OF PHYSICIANS
BOARD
OPEN MEETING MINUTES
4201 Patterson Avenue, Baltimore, MD
Room 100
October 31, 2018**

The Maryland Board of Physicians (the Board) met Wednesday, October 31, 2018 with the following members present:

Damean W.E. Freas, D.O., Board Chair
Arun Bhandari, M.D., Chair
Marie-Alberte Boursiquot, M.D.
Mark S. Dills, P.A.
Jon S. Frank, Consumer Member
Dalila Harvey-Granger,
Alvin L. Helfenbein, Jr.
Ira Kornbluth, M.D.
Mark D. Olszyk, M.D.

Kevin Pereira, M.D.
Robert P. Roca, M.D.
Beryl J. Rosenstein, M.D.
Martha Schaerr, Consumer Member
Ann Marie Stephenson Thomas, D.O., M.B.A.
Maxine E. Turnipseed, Consumer Member
Thomas M. Walsh, M.D.
Scott J. Wiesenberger, M.D.

ABSENT: Lisa Burgess, M.D.; Camille M. Williams, M.D.

STAFF PRESENT: Christine Farrelly, Executive Director; Ellen Douglas Smith, Deputy Director; Stacey Darin, Assistant Attorney General; David Finkler, Assistant Attorney General; Noreen Rubin, Assistant Attorney General; David Wagner, Assistant Attorney General; Rhonda Anderson, Customers Service Supervisor; Ian Andrews, Compliance Analyst Associate; Shelley Taylor-Barnes, Lead Allied Health Analyst; Barbara Dailey, Administrative Specialist /Receptionist; Rhonda Deanes, Allied Health Analyst Associate; Michelle Dixon, License Customer Service; Lisa Dorsey, Lead Licensure Analyst; Matthew Dudzic, Compliance Analyst Associate; Angela Gaither, Management Associate; Wynee Hawk, Manager, Policy and Legislation; Stacie Hobbs, Lead Compliance Analyst; Joverne Holloway, License Analyst Associate; Sandi Van Horn, Health Policy Analyst; Eric Jarkowski, Compliance Analyst Associate; Brenda Jones, IT Program Analyst; Yemisi Koya, Director, Communication, Education and Policy, CEP; Cecilia Laurent, Allied Health Analyst; Linda Monroe, Allied Health Analyst; Melvinia Nance, License Customer Service; Todd O'Banner, Fiscal Administrator; Leelyn Parker, Licensure Analyst; Victoria Rhoney, Licensure Analyst; Regina Rouchard, Procurement; Dierdra Rufus, Lead Licensure Analyst; Maureen Sammons, Intake Manager; Colette Satterfield, DCCR Administrative Support; Leslie Taylor, Director Fiscal; Marty Teramani, Network Supervisor; Philip Thomas, Licensure Analyst Associate; Nicole Thompson, Licensure Supervisor; Mark Woodard, Health Policy Analyst; Felicia Wright, Allied Health Supervisor

GUESTS: Kim Bennardi, Maryland Department of Health (MDH); Sharon Bloom, Executive Assistant, Office of Health Workforce, MDH; Deborah Donahue, Office of Attorney General; Kim Lang, Director, Health Occupations Boards and Commissions, MDH; Natalie Orbach, PA-C, Chair, MBP, Physician Assistant Advisory Committee; Dr. Claude Smith, Psychiatrist

CALL TO ORDER

Dr. Freas called the meeting to order at 9:05 a.m.

STAFF AND UNIT INTRODUCTIONS

Board Supervisors and Managers introduced themselves and their staff to Board members and explained the functions of their Units.

NEW BUSINESS

Board Approved Course List

Board staff requested approval to add the Life Resources, LLC to the Board-approved Course List for Respondents who have been disciplined and are mandated to complete a course or courses.

*On a motion made by Dr. Walsh, and seconded by Dr. Boursiquot, the Board voted unanimously to **APPROVE** the staff recommendation to add the Life Resources, LLC course to the Board-approved Course List.*

Licensure - Special Purpose Examination (SPEX) for Reinstatement of Medical License Malcolm N. Joseph, M.D.

Board staff recommended that Dr. Joseph be required to take the SPEX since he met all the requirements for taking the SPEX.

On a motion made by Dr. Olszyk, and seconded by Dr. Walsh, the Board voted unanimously to require Dr. Joseph to take the SPEX.

ANTITRUST PRESENTATION – Deborah Donahue, Office of the Attorney General

Ms. Donahue gave a presentation on the Antitrust Review process.

BOARD VOTE TO CLOSE SESSION

CLOSED SESSION: *“Pursuant to Maryland General Provisions Article §3-305(b)(7)(8), on a motion made by Dr. Rosenstein, and seconded by Dr. Weinsenberger, the Board unanimously voted to close its meeting on October 31, 2018 at 9:45 a.m., in room 100.*

SUMMARY OF CLOSED SESSION:

The Board went into closed session for legal advice on antitrust immunity and active state supervision and also to consult with counsel and staff on potential litigation and strategies.

The Board returned to open session at 10:53 a.m.

CRIMES OF MORAL TURPITUDE PRESENTATION – Stacey Darin, Board Counsel

Ms. Darin, gave a training presentation on Crimes of Moral Turpitude that consisted of the statutory predicate, procedures, process and case examples.

POLICY/LEGISLATION

Regulations

Amended COMAR 10.32.17: Sexual Misconduct Regulations

Ms. Van Horn presented, for Board approval, a proposal to update COMAR 10.32.17. A draft of the proposed amended regulations was posted on the Board's website for informal comments. The Board received no comments.

*On a motion made by Dr. Olszyk, and seconded by Dr. Rosenstein, the Board voted to **APPROVE** the draft proposal so Board staff can continue the regulation promulgation process.*

Amended COMAR 10.32.01.02: General Licensure/10.32.13.02 Conceded Eminence

Mr. Woodard presented revisions to the General Licensure and Conceded Eminence regulations by adding a definition of "Postgraduate training" and making other stylistic changes. He recommended approving the regulations for posting on the Board's website and to proceed through the promulgation process.

*On a motion made by Dr. Rosenstein, and seconded by Dr. Allaway, the Board voted to **ACCEPT** Mr. Woodard's recommendation.*

Cardiovascular Invasive Specialist (CIS) Workgroup Report

Dr. Koya provided an update regarding the CIS Workgroup Report.

EXECUTIVE DIRECTOR REPORT

Ms. Farrelly advised the Board members that Board staff emailed and distributed hard copies of the 2019 Board Calendar and Panel Meetings List.

Interstate Compact - FYI

Ms. Farrelly and Ms. Douglas Smith are both commissioners on the Interstate Medical Compact Commission and will be attending a conference in Denver, Colorado, on November 14, 2018. Mr. Finkler, Board Counsel will also be attending. Ms. Hawk prepared the draft on the rules regarding Interstate Medical Compact. Ms. Farrelly and Mr. Finkler have conducted several meetings to finalize the rules for the commissioners to vote on at the conference.

Procedural Issues:

Board staff asked the Board to consider changing the automatic three year revocation in cases of "Notice of Intent to Revoke," for the Criminal History Record Cases, (CHRC) to a one year revocation.

*On a motion made by Dr. Roca, and seconded by Dr. Boursiquot, the Board voted to **ACCEPT** Board staff's recommendation.*

Imposition of Administrative Penalty for Failing to Change Name and Address

Ms. Farrelly asked the Board if they would approve an administrative penalty of \$100.00 for licensees who have failed to provide the Board with a name or address change within 60 days (pursuant to the statute) after the change and for staff to include this information on the renewal/initial licensure page and in the monthly newsletter.

*On a motion made by Dr. Walsh, and seconded by Dr. Olszyk, the Board voted to **ACCEPT** Ms. Farrelly's request.*

Delegation of Certain Approvals to Licensure Practice of Medicine Committee (LPOMC)

Board staff asked whether the Board wanted to delegate authority to the LPOMC to render final decisions regarding certain decisions including, but not limited to postgraduate training equivalency, whether an applicant is required to take the SPEX, applicants for licensure by conceded eminence or applicants for renewal of their conceded eminence license. Any cases that the LPOMC does not unanimously vote on or a denial is recommended will be brought before the Board for review and final decision.

*On a motion made by Dr. Walsh, and seconded by Dr. Olszyk, the Board voted to **DELEGATE** certain licensure decisions to the LPOMC.*

DISCUSSION FOR PA WORKGROUP

Dr. Koya and Mr. Finkler provided background information to the Board on the Physician Assistant Workgroup and sought guidance and information from the Board regarding issues that should be considered by the Workgroup.

They explained that the Workgroup was convened to suggest changes to the physician assistant statute and regulations. The Board held a discussion about its intended direction of the workgroup and the proposed goals. The Board agreed to further updates in the future.

BOARD COUNSEL REPORT

Dr. Rosen received his Consent Order on Sept. 27, 2018 and agreed to settle. He accepted a reprimand, a permanent ban on prescribing and dispensing of all CDS, PDMP subpoenas routinely issued to monitor his prescriptions, and 2 years of probation.

Dr. Rosen appealed another Board Order reprimanding him for a standard of care violation and

unprofessional conduct in the practice of medicine. The circuit court affirmed the Board's findings on the standard of care violations, but not on unprofessional conduct. On October 21, 2018, Dr. Rosen agreed to withdraw his appeal and filed a Notice of Dismissal, in which the Board joined to dismiss its cross-appeal filed regarding the unprofessional conduct.

On May 30, 2018, the Court of Special Appeals, (COSA) affirmed Panel B's October, 2016 decision revoking Dr. Alexander's medical license for violating the standard of care and committing unprofessional conduct in the practice of medicine. The COSA also affirmed the Board's findings that Dr. Alexander's violations of the standard of care, performing an unnecessary medical procedure.

UNFINISHED BUSINESS

Previously Board approved procedures RECOMMENDED for APPROVAL:

Physician Assistant	Supervising Physician	Requested Procedure(s)	Practice Setting	Date of Approval of Core Duties DA
James Brennan Jr., PA-C	Claude Smith, M.D.	1)Advanced Psychopharmacologic treatment 2)Conduct Diagnostic assessments psychopharm interventions and behavioral interventions	Private/Other	6/27/18
Amy Schwartzbaum, PA-C	Claude Smith, M.D.	1)Advanced Psychopharmacologic treatment 2)Conduct Diagnostic assessments psychopharm interventions and behavioral interventions	Private/Other	1/24/18

At its October 17, 2018 meeting, the Board reviewed this addendum request, but tabled it pending further discussion with Dr. Smith at its full Board meeting on October 31, 2018.

Dr. Smith attended the Board meeting and addressed the Board members' concerns regarding the Advanced Psychopharmacologic Treatment and Conduct Diagnostic assessments psychopharm interventions and behavioral interventions for Mr. Brennan Jr., PA-C, Ms. Schwartzbaum, PA-C, and Dr. Smith.

*On a motion made by Dr. Walsh, and seconded by, Dr. Stephenson Thomas, the Board voted unanimously to **APPROVE** Mr. Brennan Jr., PA-C, Ms. Schwartzbaum, PA-C, and Dr. Smith, addendum request to perform the aforementioned advanced duty.*

OTHER BUSINESS – FOR YOUR INFORMATION ONLY

LPMOC Recommendation

On October 24, 2018, on a motion made by Dr. Olszyk and seconded by Ms. Schaerr, the Board voted by email to accept the LPOMC's recommendation to not require Dr. Lisa Ann Burgess and Dr. Robert Kadlec to take SPEX's exam as a requirement for reinstatement.

The open meeting ended at 1:56 p.m.

Submitted by,



3/27/2019

Damean W. E. Freas, D.O.
Board Chair

Date