

WEST VIRGINIA BOARD OF MEDICINE
Executive/Management Committee Minutes
July 14, 2024

The West Virginia Board of Medicine’s Executive/Management Committee met at 10:30 am on July 14, 2024, at the Board Office.

The following committee members attended the meeting:

Ashish P. Sheth, MD, Executive/Management Committee Chair
Matthew Q. Christiansen, MD, MPH
Jonathan P. Lilly, MD
Angela A. Mayfield

The following staff members attended the meeting:

Mark A. Spangler
Evelyn R. Bush
Jamie S. Alley, Esq.
Greg S. Foster, Esq.
Jamie C. Frame

The following board member, who is the Chair of the Physician Assistant Committee, attended a portion of the meeting at the Executive/Management Committee’s invitation to provide an update and recommendation on behalf of the Physician Assistant Committee:

Victoria L. Takubo, PA-C

With a quorum of members present, Dr. Sheth called the meeting to order, and attendance was documented by Ms. Frame.

**CALL TO
ORDER**

Prior to today’s meeting, a copy of the draft May 19, 2024 meeting minutes were made available for members to review. Dr. Lilly moved that the May 19, 2024 meeting minutes be approved. Dr. Christiansen seconded the motion, and the motion carried without opposition.

**APPROVAL
OF MINUTES**

Mr. Spangler reported that as of May 12, 2024, twelve states, including West Virginia, have enacted legislation related to the Physician Assistant Licensure Compact. Ms. Takubo provided a brief overview of the Compact and reported that each member state will need to appoint a commissioner to represent their state. Ms. Takubo reported that the Physician Assistant Committee recommends that Ms. Alley be appointed to represent West Virginia. Ms. Mayfield

moved that the Committee recommend that the Board, in conjunction with the West Virginia Board of Osteopathic Medicine, appoint Ms. Alley to represent West Virginia on the Physician Assistant Licensure Compact Commission. Dr. Christiansen seconded the motion, and the motion carried without opposition.

Ms. Takubo left the meeting room at this time and was not present for the remainder of the meeting.

Prior to today's meeting, a request from Mujhtuba Ali Hassan Baksh, MD, and associated documentation, was made available for members to review. Mr. Spangler reported that Dr. Baksh, who currently holds an educational permit issued by this Board, has requested that the Board sponsor him to sit for Step 3 of the United States Medical Licensure Exam (USMLE) for a final time. The USMLE allows candidates four attempts to successfully pass any step of the exam sequence and may permit a final attempt with board sponsorship. Based upon the facts and information available, Dr. Christiansen moved that the Committee recommend that the Board sponsor Dr. Baksh to sit for Step 3 of the USMLE. Dr. Lilly seconded the motion, and the motion carried without opposition. Additionally, Dr. Christiansen moved that Board staff develop a policy which establishes specific criteria which must be met prior to seeking Board sponsorship to sit for any Step of the USMLE for a fifth time. Ms. Mayfield seconded the motion, and the motion carried without opposition.

Prior to today's meeting, a copy of the fiscal reports and purchasing card transactions for the months of April and May 2024 were made available for members to review. Mr. Spangler provided an overview of the Board's financial status and reported that the Board continues to maintain a good financial position. Mr. Spangler further reported that there were fraudulent charges associated with his purchasing card in May 2024; the charges were promptly reported to the West Virginia Purchasing Division, and the purchasing card was deactivated to prohibit additional fraudulent attempts. Dr. Lilly moved that the April and May 2024 fiscal reports and purchasing card transactions be accepted. Dr. Christiansen seconded the motion, and the motion carried without opposition.

Mr. Spangler reported that the Executive Director of the Ohio Medical Board, Stephanie Loucka, has offered to conduct an in-service for board and staff members following the September 9, 2024 meeting. The in-service will focus on the investigation and evaluation of sexual misconduct complaints and trauma-informed training. To provide adequate time for the in-service, Dr. Lilly moved that the September 9, 2024 board meeting begin at 8:30 am. Dr. Christiansen seconded the motion, and the motion carried without opposition.

Mr. Spangler reported that the 2024 renewal period for medical doctors whose last names begin with the letters A through L, controlled substance dispensing practitioner registrations for medical doctors whose last names begin with the letters A through L, educational permit participants and professional limited liability companies began on May 1, 2024 and concluded at 4:30 pm on June 28, 2024. The following statistics were reported:

Credential Type	Number Eligible to Renew	Number Successfully Renewed	Number Expired Due to Nonrenewal
Medical Doctors Licenses (A-L) - Traditional Pathway*	4446	3761	685
Medical Doctor Licenses (A-L) – Interstate Medical Licensure Compact Pathway	909	681	228
Medical School Faculty Licenses**	6	6	0
Restricted License in Extraordinary Circumstances	1	1	0
Volunteer Licenses	3	3	0
Administrative Medicine Licenses	7	5	2
Educational Permits	675	538***	137
Controlled Substance Dispensing Registrations	151	99	52
Professional Limited Liability Company Authorizations	171	145	20****

* Does not included medical school faculty, restricted license in extraordinary circumstances or interstate medical licensure compact licenses.

** Medical school faculty data is provided for fiscal year July 1, 2023 through June 30, 2024.

*** Includes thirty-six educational permits that were reissued to continue in a different program beginning July 1, 2024.

**** Six professional limited liability companies reported to the Board that company closed between July 1, 2023 and June 28, 2024. The status for the six companies was changed to closed in the database rather than renewed or expired.

Mr. Spangler reported that the Board is in the process of renewing the contract with the Board's current database vendor, Big Picture. It is anticipated that the database and the website will be placed out for bid in late summer or early fall.

Prior to today's meeting, a proposed invoice in the matter of *West Virginia Board of Medicine, Petitioner, v. Phillip Allen Peterson, MD, Respondent*, Complaint No. 22-86-W was made available for members to review. Mr. Spangler reported that in April 2024, the Board issued a Final Decision and Order in this matter, which is currently being appealed. Among other things, the Final Decision and Order required Dr. Peterson to pay the costs and expenses of the proceeding. Dr. Lilly moved that the Committee recommend that the Board approve issuance of the invoice in this matter and delegate authority to staff to respond to any requests to stay payment pending appeal. Dr. Christiansen seconded the motion, and the motion carried without opposition.

Mr. Spangler reported that in March 2024, the Board approved the issuance of an invoice in the matter of *West Virginia Board of Medicine, Petitioner, v. David Nathaniel Smith, MD, Respondent*, Complaint No. 21-96-W, which assessed Dr. Smith the costs and expenses of the proceeding. To date, Dr. Smith has not paid the costs and expenses of the hearing as required by the Board's Final Decision and Order. The Committee directed board staff to seek the West Virginia Attorney General's assistance in collecting payment.

Prior to today's meeting, a draft *Joint Advisory Opinion Regarding Retail IV Therapy Issued by the West Virginia Board of Medicine, the West Virginia Board of Osteopathic Medicine, the West Virginia Board of Pharmacy and the West Virginia Board of Registered Nurses*, which contains proposed modifications by the Board of Pharmacy and the Board of Registered Nurses was made available for members to review. The Board of Pharmacy proposed that the word "must" replace the word "should" throughout the opinion; however, as this is a joint opinion rather than statute or rule, the Committee elected to maintain the use of the word "should" throughout the opinion. Additionally, the Board of Pharmacy proposed pharmacy practice recommendations,

which are acceptable to the Committee; and will be incorporated into the opinion. The Board of Nursing proposed that the best practices provision of IV hydration therapy in West Virginia be modified to read “IV therapy, including IV hydration therapy, is the practice of medicine and a common intervention in nursing practice.” The Committee elected to maintain this sentence as originally drafted, “IV therapy, including IV hydration therapy, is the practice of medicine.” However, the Committee elected to add the following additional sentence “The administration of IV therapy pursuant to an appropriate, legal order, is a common intervention in nursing practice.” Dr. Christiansen moved that the Committee recommend that the Board approve the *Joint Advisory Opinion Regarding Retail IV Therapy* as modified and authorize board staff to collaborate with the other boards to finalize the opinion. Ms. Mayfield seconded the motion, and the motion carried without opposition.

At the May 19, 2024 meeting, Mr. Spangler reported that the West Virginia Performance Evaluation and Research Division (PERD) recently conducted a performance review of the West Virginia Medical Imaging & Radiation Therapy Technology Board of Examiners, and PERD staff are considering recommending to the West Virginia Legislature the possibility of integrating the oversight of the medical imaging profession within the Board of Medicine. As directed by the Committee, following the May 19, 2024 meeting, Board staff communicated to PERD that while the medical imaging professions interrelate with the professions regulated by the Board of Medicine, the Board would need additional information in order to fully evaluate the possible integration. As of today’s date, no additional information has been provided.

Prior to today’s meeting, correspondence received from a County Health Department regarding laser tattoo removal was made available for members to review. Mr. Spangler asked Ms. Frame to report on laser tattoo removal statutes, rules and guidelines in other states. Following Ms. Frame’s report, the Committee directed Board staff to refer the requestor to the Board’s *Public Policy Statement on Surgery Using Laser, Pulsed Light, Radiofrequency Devices, or Other Techniques*, which is available on the Board’s website.

Prior to today’s meeting, correspondence that was received regarding the possible violation of prescribing laws in connection with supervisory or collaborative agreements was made available for members to review. Mr. Spangler reminded members that earlier this year they reviewed the

correspondence and directed board staff to gather additional information and report back to the Committee. Mr. Spanger asked Ms. Alley to provide an update regarding this matter. Ms. Alley reminded members that the correspondence raises concerns related to companies that offer to connect physician assistants and nurse practitioners with collaborating physicians who can provide regulatory required collaboration for controlled substance prescribing without establishing a direct patient-care relationship. The correspondence does not identify specific providers, and there is no evidence that West Virginia prescribing laws are being violated. It does not appear that the companies are currently brokering physicians to write prescriptions. Given the information provided, the Committee determined that no additional follow-up regarding this matter is warranted.

In advance of today's meeting, the following Federation of State Medical Board policies were made available for members to review:

- *Public Policy Compendium*
- *Office-Based Surgery*
- *Navigating the Responsible and Ethical Incorporation of Artificial Intelligence into Clinical Practice*
- *Regulation of Physicians in Training*
- *Strategies for Prescribing Opioids for the Management of Pain*
- *Guidelines for Structure Function of State Medical and Osteopathic Boards*
- *Position Statement on Access to Evidence-Based Treatment for Opioid Use Disorder*

Committee members expressed possible interest in the policy entitled *Navigating the Responsible and Ethical Incorporation of Artificial Intelligence into Clinical Practice* and would like to further discuss this policy at the September 2024 meeting. The Committee directed Board staff to review each of the policies, and at the September meeting present an assessment of the policies that may be beneficial for the Board.

Mr. Spangler reported that the Board's current building lease is scheduled to terminate, if not renewed, at the end of this year. As previously directed by the Committee, Mr. Spangler reported that he has been in contact with the West Virginia Real Estate Division regarding the process for exploring alternative office spaces.

As the election of officers will take place at tomorrow's board meeting, this meeting will conclude Dr. Sheth's tenure as Chair of the Executive / Management Committee. Mr. Spangler and fellow Board and Staff members thank Dr. Sheth for his advice and leadership throughout the years.

ADJOURNMENT

There being no further business to consider, Dr. Christiansen moved that the meeting adjourn. Ms. Mayfield seconded the motion, and the motion carried without opposition.

A handwritten signature in blue ink, appearing to read 'Jonathan P. Lilly', is written over a horizontal line.

Jonathan P. Lilly, MD
Executive/Management Committee Chair