

Minutes of the Meeting of the
NYS Medicine Board
September 9, 2022
1411 Broadway NY, NY and via WebEx

Meeting is available via WebEx and recorded.

Board Members Present: Dr. Berger, Dr. Boursiquot, Dr. Epstein, Dr. Grayson, Dr. Guthrie, Dr. Kasinathan, Dr. Mark, Dr. Papa, Dr. Plummer, Dr. Rajan, Dr. Raju, Dr. Rehman, Dr. Sahgal, Dr. Sapio, Dr. Shah, Dr. Sharma, Dr. Shelat, Dr. Walther, and Dr. Wlody; PA Greg Shutts; and public members Marian Goldstein and JoAnn Marino.

Board Members Absent: Dr. Autz, Dr. Lerner, and Dr. Salemi.

Guests Present: Mary Sutphen and John Heaphy Pharmacy Consultants from the NYSDOH Bureau of Narcotics Enforcement, Cassandra Pineda of Greater New York Hospital Association, Al Wattermaker, David Flashover, Laura Ordway.

Staff Members Present: Stephen Boese, Executive Secretary to the Board; Carla Wells, Education Program Assistant 2; Lee Fitzgerald, Education Program Assistant 1; and Heidi Weinman, Administrative Assistant.

Meeting is called to order by Dr. Epstein at 9:30 am.

Motion to Accept Minutes: Motion is made, seconded, and passed to accept the minutes from the June 2022 meeting.

Discussion Items:

Chair's Report:

Dr. Epstein reports that the Board is accepting applications for a Physician Assistant member. Current Board members are encouraged to ask their qualified colleagues to apply.

This is Dr. Rajan's and Dr. Lerner's final meeting before their retirement from the Board. The Board members thank them for their many years of invaluable service.

Report from the Advisory Committee on Clinical Clerkships:

Dr. Epstein reports that the Board of Regents met and approved two schools. Technion was approved for 7 years and Ben Gurion for 2 years. The Israeli government has instructed all schools to stop accepting international students in an effort to keep local students in Israel to address the physician shortage. It is uncertain yet how this will impact international students performing clinical clerkships in New York.

International Medical Graduate Workgroup Report:

Mr. Boese reports that the workgroup considered 35 applications since the last meeting—a higher number than usual. Dr. Rajan will be leaving the workgroup in October and Dr. Guthrie will fill the vacancy.

Executive Secretary's Report:

Mr. Boese provides an update from the Office of the Professions:

FDA Meeting – Mr. Boese attended the FDA meeting. They discussed regulation issues pertaining to hydration clinics. Staff from the Pharmacy and Nursing Board also attended. No proposals were discussed, and the meeting was mostly exploratory. The main issues they considered were issues of licensure and who should be authorized to practice at such clinics.

BPMC Meeting - Dr. Shelat, Dr. Papa and Mr. Boese will attend the BPMC meeting in October.

Discussion of Clinical Clerkship Regulation - NYSED has long had a policy of requiring international students coming to New York for fewer than 12 weeks to apply for and be granted a letter of eligibility, demonstrating that they meet the minimal requirements for such clerkships. However, the Regulations of the Commissioner of Education Section 60.2(d) stipulate "...the student shall present a letter of eligibility if issued by the department." The Board discussed proposing a simple regulatory change which would omit that "if."

Dr. Epstein does not believe that this "if" would exempt someone from needing a Letter of Eligibility. However, removing it would completely remove any potential loophole.

Legislative Update - No new updates have been made since the last meeting.

Accommodations for meeting by WebEx made under the Governor's Executive Orders have been extended again until Sept 12, 2022. Many State COVID restrictions are lifting. We will notify board members via email if that is not renewed.

Report from the Intellectual and Developmental Disabilities Workgroup:

Dr. Papa reports that the workgroup attempted to publish their article in several journals and has so far been unsuccessful. At the next meeting following the FSMB, the workgroup will regroup to move forward.

New York Medical College, Westchester Medical Center is incorporating an Intellectual and Developmental Disabilities curriculum.

Report from the FSMB:

Dr. Shelat reports that he will be re-chairing the bylaws committee for the FSMB.

Presentation from the NYSDOH Bureau of Narcotics Enforcement:

Mary Sutphen, and John Heaphy, Pharmacy Consultants from the NYSDOH Bureau of Narcotics Enforcement gave a presentation to the Board on Controlled Substances Regulation.

To prescribe controlled substances in New York, under most circumstances the first appointment must be in-person and cannot be over telehealth. However, there is a consultation exemption if patient records indicate a physical examination.

In 2012 legislation was passed establishing the Prescription Monitoring Program (I-STOP). Practitioners must consult the registry before prescribing level 2, 3, or 4 controlled substances, and must indicate in their records that they checked the registry beforehand. In the ten years since this was introduced, the practice of “Doctor Shopping” has dropped from almost 30% to less than 1%. There has also been an overall decline in the prescribing of controlled substances.

In 2016 legislation was passed establishing the Mandatory Prescriber Education requirement. If a prescriber licensed in New York has a DEA number in any state, they must complete the Mandatory Prescriber Education every 3 years. There are concerns from the Board members about awareness and enforcement. The BNE shared that they have sent occasional email blasts for reminders, but it is ultimately the responsibility of the licensee to be compliant. Multiple Board members shared that they knew colleagues who were unaware of this requirement or were under the impression that it only applied to Physicians.

Discussion Item, Section 6526 of the Education Law:

Section 6526 of the Education Law provides for various exceptions for practicing medicine without a license. One of these, paragraph 2, provides an exemption for “Any physician who is licensed in a bordering state and who resides near a border of this state, provided such practice is limited in this state to the vicinity of such border and provided such physician does not maintain an office or place to meet patients or receive calls within this state.”

This has been and continues to be interpreted as applying to an in-person interaction with a physician, with the reasoning that this provision of law was enacted well before the advent of contemporary telehealth technologies. However, recent events have led some stakeholders to question whether this interpretation could possibly be revised to reflect modern communication technologies.

The Board considers the applications to telehealth. One possible benefit to allowing only Physicians licensed in bordering states to provide telehealth services is that this would provide a

hard limit on who can provide such services. Another consideration is to instead enter individual agreements with states to allow their Physicians to practice telehealth here. There is concern however, that if we allow reciprocal telehealth these Physicians will not be held to our laws or standards. If they can, the thought is they should be licensed in New York.

Report from the Perfusion Committee:

Mr. Boese reports there has been no recent meeting.

Report from the Medical Physics Committee:

Mr. Boese reports there has been no recent meeting.

Report from the Pathologists' Assistant Committee:

Mr. Boese reports there has been no recent meeting.

Report from the Athletic Training Committee:

Mr. Boese reports that the Athletic Training Committee drafted practice guidelines for joint reduction. The reduction must be pursuant to a written protocol with their supervising Physician. This was shared with the New York State Athletic Trainers' Association who agreed with the guidelines with one suggestion. The statement indicated that following a dislocation, Athletic Trainers may attempt a joint reduction once. NYSATA recommends that "once" be omitted and instead this would be subject to the physician's standing order. There is concern from the Board members over language in the guidelines that if the reduction is unsuccessful, they "must" be referred to a physician and if it is successful, they "should" see one. A recommendation is made that the patient should follow-up with a Physician either way.

Next Meeting Dates:

The next meetings are set for 12/9/22, 3/3/23, and 6/9/23 at 9/8/23 9:30 am. The upcoming December meeting will be held both in person at 1411 Broadway and via WebEx again unless otherwise directed in email.

Meeting adjourned at 11:18 am.

Draft respectfully submitted,

Lee Fitzgerald
Education Program Assistant 1