

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF MEDICINE
VIA TELECONFERENCE**

TIME: 10:40 A.M.

Tuesday, October 27, 2020

State Board of Medicine
October 27, 2020

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

ALSO PRESENT:

- Amirtha Dileepan, M.D.
- Emily Roussel, MPH, Executive Assistant for Health Innovation, Pennsylvania Department of Health
- Jen Smeltz, Executive Director, Consumer Protection and Professional Licensure Committee
- Andrew C. Harvan, Esquire, Pennsylvania Medical Society
- Randy Stevens, Pennsylvania Orthotic and Prosthetic Society
- Susan DeSantis, PA-C, Pennsylvania Society of Physician Assistants
- Mary Marshall, Director, Workforce & Professional Services, The Hospital and Healthsystem Association of Pennsylvania
- Angie Armbrust, Senior Associate, McNees-Winter Group LLC

1 ***

2 State Board of Medicine

3 October 27, 2020

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 9:30 a.m. the Board entered into Executive Session
7 with Dana M. Wucinski, Esquire, Board Counsel, and
8 Shana M. Walter, Esquire, Board Counsel, for the
9 purpose of conducting quasi-judicial deliberations on
10 a number of matters currently pending before the Board
11 and to receive the advice of counsel. The Board
12 returned to open session at 10:30 a.m.]

13 ***

14 [Dana M. Wucinski, Esquire, Board Counsel, noted the
15 meeting was being recorded, and those who remain were
16 consenting to being recorded.]

17 ***

18 The regularly scheduled meeting of the State
19 Board of Medicine was held on Tuesday, October 27,
20 2020. Keith E. Loiselle, Chairman, Public Member,
21 called the meeting to order at 10:40 a.m.

22 ***

23 [Chairman Loiselle requested all to mute their
24 electronic devices. He thanked everyone who relies on
25 the Board to conduct its business in a timely manner

1 for their patience. He commended Secretary Levine,
2 Commissioner Johnson, Ms. Zerbe, and Mr. Stauffer for
3 their work by continuing to allow the Board to perform
4 its functions appropriately. He stated all matters
5 discussed in the meeting carry the same full force and
6 effect as though it was a typical meeting in
7 Harrisburg.]

8 ***

9 Approval of minutes of the September 2, 2020 meeting

10 CHAIRMAN LOISELLE:

11 At this time, may I ask for approval of
12 the September minutes?

13 DR. WOODLAND:

14 So moved.

15 MS. HOWARD:

16 Second.

17 CHAIRMAN LOISELLE:

18 All in favor, say aye. Any opposed?

19 [The motion carried unanimously.]

20 ***

21 Introduction of Audience

22 [Keith E. Loisel, Chairman, Public Member, requested
23 Mr. Stauffer introduce audience members.]

24 ***

25 Roll Call

1 [Chairman Loiselles requested a roll call of Board
2 members.]

3 ***

4 Report of Prosecution Division

5 [Adam Williams, Esquire, Board Prosecutor, presented
6 the Consent Agreement for Case No. 20-49-003985.]

7 ***

8 [Keith E. Bashore, Esquire, Board Prosecutor,
9 presented the Consent Agreements for Case No. 19-49-
10 009132 and Case No. 19-49-014284.]

11 ***

12 [Jason T. Anderson, Esquire, Board Prosecutor,
13 presented the Consent Agreements for Case Nos. 18-49-
14 011618 & 18-49-006554.

15 He also presented the VRP Consent Agreements for
16 Case No. 20-49-008365, Case No. 20-49-08366, Case No.
17 20-49-008368, and Case No. 20-49-009479.]

18 ***

19 Appointment - Prescribing Guidelines for Affirmation

20 [Emily Roussel, MPH, Executive Assistant for Health
21 Innovation, Pennsylvania Department of Health,
22 presented an update from a prior meeting. She
23 addressed the three new prescribing guidelines created
24 by the Safe and Effective Prescribing Practices Task
25 Force for safe administration of low-dose ketamine

1 when treating pain in patients with opioid-use
2 disorder and acute and chronic pain in patients with
3 sickle cell disease. She noted a few members of the
4 Board suggested edits after the last meeting and
5 informed all of the updated versions available on the
6 Department of Health website.]

7 ***

8 MS. WUCINSKI:

9 At this time, I believe the Board would
10 entertain a motion to affirm the
11 prescribing guidelines at agenda items
12 30 through 32 as voluntary guidelines
13 only, with the understanding that the
14 Board specifically opposes any
15 legislative action designed or intended
16 to make these guidelines statutory.

17 Could I have a motion?

18 DR. WOODLAND:

19 So moved.

20 COMMISSIONER JOHNSON:

21 Second.

22 MS. WUCINSKI:

23 All in favor? Opposed?

24 [The motion carried unanimously.]

25 ***

1 Report of Commissioner

2 [K. Kalonji Johnson, Commissioner, Bureau of
3 Professional and Occupational Affairs, expressed
4 gratitude to Board members, colleagues, stakeholders,
5 and members of the public for continuing to exercise
6 an inordinate amount of patience while utilizing the
7 virtual platform.

8 Commissioner Johnson announced the 2020 licensing
9 renewal season had opened, and applicants should be
10 able to access the renewal portal and exercise their
11 opportunity to renew in a timely fashion.

12 Commissioner Johnson recommended that all make
13 sure providers are transmitting the child abuse
14 continuing education (CE) information.

15 Commissioner Johnson noted this was Chairman
16 Loiselle's last meeting and thanked him for all of the
17 work performed as the Board chairman and as a public
18 member.

19 Commissioner Johnson read the proclamation for
20 Chairman Loiselle from the Department of State Bureau
21 of Professional and Occupational Affairs for his
22 contributions to the Pennsylvania State Board of
23 Medicine and the citizens of the Commonwealth.

24 Chairman Loiselle thanked everyone.

25 Dr. Woodland questioned whether there was

1 Ms. Howard noted DOH was looking at the risk
2 assessment of people who no longer test positive and
3 recommended everyone use the dashboard and all of the
4 information on the DOH website page.

5 Dr. Woodland provided information from the
6 National Academies of Sciences, Engineering, and
7 Medicine, where Bill Gates, Dr. Sanjay Gupta, and Dr.
8 Anthony Fauci noted a huge percentage of the
9 population had not been exposed yet. He noted 85-95%
10 exposure is needed for herd immunity and emphasized
11 the importance of masking, washing hands, and
12 appropriate distancing.

13 Ms. Howard reported considering 80% to have
14 recovered, meaning it had been more than 30 days past
15 the positive test or onset of symptoms.

16 Chairman Loiselle noted the importance of taking
17 the appropriate precautions, particularly in the
18 population highly susceptible to a terrible outcome.
19 He also noted the importance of not making fear the
20 only motivation for protection and would like to see
21 some declaration from the Department of Health on
22 long-term consequences or succumbing to the disease
23 were pretty minimal.]

24

25 Report of Committee on Health-Related

1 Professionals - No Report

2 ***

3 Report of Committee on Legislation/Policy Development
4 and Review

5 [Keith E. Loisel, Chairman, Public Member, combined
6 the committee report with discussion during the Report
7 of Board Chair.]

8 ***

9 Report of Committee on Licensure Qualifications

10 [Mark B. Woodland, M.S., M.D., Vice Chair, combined
11 the committee report discussion with the Report of
12 Vice Chair.]

13 ***

14 Report of Vice Chair

15 [Mark B. Woodland, M.S., M.D., Vice Chair, announced
16 his attendance at the annual meeting of the National
17 Academies of Sciences, Engineering, and Medicine. He
18 stated the next three months were going to be
19 important for COVID-19. He addressed graduate medical
20 education, noting a modified schedule for all of the
21 residency applications that were mostly virtual this
22 year.

23 Dr. Woodland also believed the COVID situation
24 would affect everyone next year as far as licensure
25 issues for graduate medical education trainees.

1 Dr. Woodland addressed OB/GYN and maternal
2 health, noting moms with COVID was still high. He
3 mentioned continued evaluation of the ramifications on
4 pregnancy with preterm birth, abruption, and other
5 issues. He stated moms seem to be very strong and
6 survive. He noted a very good Centers for Disease
7 Control and Prevention (CDC) advice connection for
8 pregnant moms.

9 Dr. Woodland recognized maternal care providers
10 as first responders and wanted to give a shout-out to
11 all health care providers in the state. He believed
12 it to be important as leaders to help boost morale and
13 keep everyone vigilant and diligent while carrying the
14 fight forward with the COVID crisis.

15 Dr. Woodland recommended Chairman Loiselle for
16 the John H. Clark, MD Leadership Award through the
17 Federation of State Medical Boards. The award is
18 presented to individuals in recognition of outstanding
19 and exemplary leadership, commitment, and contribution
20 in advancing the public good at the state medical
21 board level. He stated this to be an excellent
22 opportunity to honor an individual of their own State
23 Board of Medicine who put forth all of these
24 characteristics during his extraordinary term and
25 leadership on this Board.]

1

2 DR. WOODLAND:

3

I would like to entertain a motion for
submission for that Leadership Award for
our Chair Keith Loiselles.

6

DR. YEALY:

7

Second.

8

DR. WOODLAND:

9

Could I have a vote of approval for
that?

10

11 [The motion carried unanimously.]

12

13

14

15

16

17

18

19

[Keith E. Loiselles, Chairman, Public Member, thanked
Dr. Woodland for his efforts and all of the Board
members for their confidence in him, stating that he
could not have accomplished anything without the
current Board and associates of the Board. He noted
it to be an incredible honor from an outstanding group
of people.]

20

21

Report of Board Chairman

22

23

24

25

[Keith E. Loiselles, Chairman, Public Member, announced
he is resigning as Chairman of the Board at the end of
the meeting and will have elections for new officers.
Chairman Loiselles referred to legislation/policy

1 development and review, thanking Commissioner Johnson,
2 Mr. Latanishen, Mr. Farrell, and Secretary Levine. He
3 was hopeful that greater collaboration between the
4 legislature, the Department of Health, and the Board
5 itself will continue. He commended Commissioner
6 Johnson for his reactiveness and willingness to help
7 the process, noting him to be second to none.

8 Chairman Loiselle addressed setting up committees
9 and suggested a committee to report each meeting on
10 trends and maybe some newsworthy items to monitor.

11 Chairman Loiselle thanked everyone for the kind
12 words, noting it to be an honor and amazing learning
13 process. He commented that the citizens of
14 Pennsylvania and licensees were in awesome hands going
15 forward. He noted being blessed to have been
16 associated with so many dedicated, talented people who
17 are very much committed to the task at hand.]

18 ***

19 Report of Board Counsel

20 [Dana M. Wucinski, Esquire, Board Counsel, thanked
21 Chairman Loiselle for all of his hard work and
22 dedication.

23 Ms. Walter also noted appreciation for what
24 Chairman Loiselle brought to the Board from a private
25 industry perspective.

1 Ms. Wucinski noted the Board held an Executive
2 Session earlier in the day and discussed the Consent
3 Agreements presented, along with agenda items 14 and
4 16 through 28.]

5

6 For the Board's Information/Discussion - Board
7 Committee List

8 [Keith E. Loiselle, Chairman, Public Member, noted the
9 current committee list was available.]

10

11 For the Board's Information/Discussion - Board
12 Meeting Dates

13 [Keith E. Loiselle, Chairman, Public Member, noted the
14 upcoming meeting on December 15, 2020.

15 Chairman Loiselle also requested Board members
16 review the proposed 2021 meeting dates and to contact
17 Ms. Zerbe with any conflicts.]

18

19 For the Board's Information/Discussion - Old
20 Business/New Business

21 [Dana M. Wucinski, Esquire, Board Counsel, referred to
22 House Bill 1277 regarding informed consent for pelvic,
23 rectal, and prostate exams. She stated it is a
24 proposed bill that would amend the Medical Care
25 Availability and Reduction of Error (MCARE) Act

1 Section 504. She noted it was referred to the Senate
2 Banking & Insurance Committee in early October.

3 Ms. Wucinski explained that the proposed
4 regulation would prohibit pelvic, rectal, and prostate
5 examinations without the explicit consent of patients
6 with the goal of protecting patient rights by ensuring
7 medical schools, teaching hospitals, and medical
8 institutions receive patient consent for all
9 procedures and exams performed while under anesthesia.

10 Dr. Woodland commented that the bill opened this
11 up for all providers in all situations and is more
12 universal. He stated it also delineated between exams
13 that were part of the scope of care, especially for an
14 OB/GYN.

15 Dr. Yealy reported being in full support of the
16 bill, noting it to be a well-crafted response that
17 allows the public to still have trust and did not
18 encroach upon the therapeutic needs of examination.

19 Chairman Loiselle noted being unaware and shocked
20 that a procedure was being performed while another
21 procedure was being performing without a patient's
22 consent. He understands it may be in a training
23 capacity that it occurs but believed it to be
24 egregious that it happens under any set of
25 circumstances. He mentioned being for the bill in

1 keeping with the Board's role to protect the citizens
2 of Pennsylvania.

3 Dr. Woodland explained that it is mandatory in
4 most institutions that everybody is introduced, which
5 is on the consent forms, especially when anesthesia is
6 involved. He mentioned the biggest fear is some kind
7 of administrative burden, but the way the bill is
8 written, there is really no additional administrative
9 burden because mostly everyone is already doing the
10 consent and introductions.]

11 ***

12 For the Board's Information/Discussion - Old
13 Business/New Business - Election of Officers

14 MS. WUCINSKI:

15 Do we have any nominations for our next
16 Board Chair?

17 DR. YEALY:

18 I'd like to nominate Dr. Woodland.

19 COMMISSIONER JOHNSON:

20 Second.

21 MS. WUCINSKI:

22 Are there any other nominations? All in
23 favor of Dr. Woodland being the next
24 Board Chair? Opposed?

25 [The motion carried unanimously.]

1

2 MS. WUCINSKI:

3 Do we have any nominations for Vice
4 Chair?

5 MS. HOWARD:

6 I nominate Dr. Domen.

7 COMMISSIONER JOHNSON:

8 Second.

9 MS. WUCINSKI:

10 Are there any other nominations? All in
11 favor of Dr. Domen being our next Vice
12 Chair, say aye? Any opposed?

13 [The motion carried unanimously.]

14

15 MOTIONS

16 MS. WALTER:

17 I believe the Board will entertain a
18 motion to approve the following Consent
19 Agreements: Case No. 20-49-003985, Case
20 No. 19-49-009132, Case No. 19-49-014284.

21 CHAIRMAN LOISELLE:

22 Do we have a motion to approve those
23 three consent agreements?

24 DR. DOMEN:

25 So moved.

1 DR. WOODLAND:

2 Second.

3 CHAIRMAN LOISELLE:

4 Dr. Domen moved, and Dr. Woodland
5 seconded. All in favor, say aye. Are
6 there any opposed?

7 [The motion carried unanimously. The Respondent's
8 name in Case No. 20-49-003985 is Claire Ann Fosselman,
9 LAT; Case No. 19-49-009132, Francine L. Bollinger,
10 LRT; and Case No. 19-49-014284, Jason E. Chacker,
11 PA-C.]

12 ***

13 MS. WALTER:

14 I believe the Board would entertain a
15 motion to approve the Consent Agreements
16 at Case Nos. 18-49-011618 & 18-49-
17 006554, noting that Dr. Valigorsky, who
18 is not here today, would be recused.

19 CHAIRMAN LOISELLE:

20 Do I have a motion to approve?

21 DR. YEALY:

22 So moved.

23 CHAIRMAN LOISELLE:

24 Dr. Yealy moves. Second?

25 MS. HOWARD:

1 I second.

2 CHAIRMAN LOISELLE:

3 Pat Howard seconds. All in favor, say
4 aye. Any opposed?

5 [The motion carried. Dr. Valigorsky was recused from
6 voting on the motion.]

7 ***

8 MS. WALTER:

9 I believe the Board would approve the
10 VRP Agreements at the following agenda
11 and case numbers: No. 6, Case No. 20-
12 49-008365; No. 7, Case No. 20-49-008366;
13 No. 8, Case No. 20-49-008368; No. 9,
14 Case No. 20-49-009479.

15 CHAIRMAN LOISELLE:

16 Do we have a motion to approve those VRP
17 agreements?

18 DR. DILLON:

19 So moved.

20 CHAIRMAN LOISELLE:

21 Dr. Dillon moves. Do I have a second?

22 DR. DOMEN:

23 Second.

24 CHAIRMAN LOISELLE:

25 Dr. Domen seconds. All in favor, say

1 aye. Any opposed?

2 [The motion carried unanimously.]

3 ***

4 MS. WUCINSKI:

5 Moving on to agenda item 14, I believe
6 the Board would entertain a motion to
7 deny the request of Nadeem Afridi, M.D.
8 relating to ECFMG reinstatement.

9 DR. DILLON:

10 So moved.

11 CHAIRMAN LOISELLE:

12 Dr. Dillon moves. Do I have a second?

13 DR. WOODLAND:

14 Second.

15 CHAIRMAN LOISELLE:

16 Dr. Woodland seconds. All in favor, say
17 aye. Any opposed?

18 [The motion carried unanimously.]

19 ***

20 MS. WUCINSKI:

21 Moving on to agenda item 16, I believe
22 the Board would entertain a motion to
23 direct Board counsel to draft an order
24 as discussed in executive session for
25 Amirtha Dileepan, M.D., Case No. 19-49-

1 012865.

2 CHAIRMAN LOISELLE:

3 Do I have a motion?

4 DR. YEALY:

5 So moved.

6 CHAIRMAN LOISELLE:

7 Dr. Yealy moves. Second?

8 DR. DOMEN:

9 Second.

10 CHAIRMAN LOISELLE:

11 Dr. Domen seconds. All in favor, say

12 aye. Any opposed?

13 [The motion carried unanimously.]

14 ***

15 MS. WUCINSKI:

16 I believe the Board would entertain a
17 motion to reinstate the Athletic Trainer
18 License of Joseph Hurley, LAT, Case No.
19 20-49-006797, to unrestricted non-
20 probationary status.

21 CHAIRMAN LOISELLE:

22 Do I have a motion accept reactivation?

23 DR. DOMEN:

24 So moved.

25 CHAIRMAN LOISELLE:

1 Dr. Domen moves. Second?

2 DR. DILLON:

3 Second.

4 CHAIRMAN LOISELLE:

5 Dr. Dillon seconds. All in favor, say
6 aye. Any opposed?

7 [The motion carried unanimously.]

8 ***

9 MS. WUCINSKI:

10 I believe the Board would entertain a
11 motion to adopt as final the proposed
12 Adjudication and Order for Gary L.
13 Worley, M.D., Case No. 20-49-006852.

14 CHAIRMAN LOISELLE:

15 Do I have a motion adopt the A&O?

16 MR. EISENHAUER:

17 So moved.

18 DR. YEALY:

19 Second.

20 CHAIRMAN LOISELLE:

21 Mr. Eisenhauer moved and Dr. Yealy
22 seconded. All in favor, say aye. Any
23 opposed?

24 [The motion carried unanimously.]

25 ***

1 MS. WUCINSKI:

2 I believe the Board would entertain a
3 motion to adopt as final the
4 Adjudication and Order for Naiyer Imam,
5 M.D., Case No. 19-49-008165.

6 CHAIRMAN LOISELLE:

7 Do I have a motion?

8 DR. YEALY:

9 So moved.

10 CHAIRMAN LOISELLE:

11 Dr. Yealy moves. Second?

12 DR. DILLON:

13 Second.

14 CHAIRMAN LOISELLE:

15 Dr. Dillon seconds. All in favor, say
16 aye. Any opposed?

17 [The motion carried unanimously.]

18 ***

19 MS. WUCINSKI:

20 I believe the Board would entertain a
21 motion to adopt as final the draft
22 Adjudication and Order for Zafar Iqbal,
23 M.D., Case No. 17-49-14398, noting Mr.
24 Loiselles and Dr. Yealy both recuse.

25 ***

1 VICE CHAIRMAN WOODLAND ASSUMED THE CHAIR

2 ***

3 VICE CHAIRMAN WOODLAND:

4 Do we have a motion to approve, please?

5 DR. DILLON:

6 So moved.

7 VICE CHAIRMAN WOODLAND:

8 Dr. Dillon moves. Second?

9 MS. HOWARD:

10 Second.

11 VICE CHAIRMAN WOODLAND:

12 Ms. Howard seconds. All in favor? Any
13 opposed? Any other recusals?

14 [The motion carried. Mr. Loiselles and Dr. Yealy were
15 recused from voting on the motion.]

16 ***

17 CHAIRMAN LOISELLE RESUMED THE CHAIR

18 ***

19 MS. WUCINSKI:

20 I believe the Board would entertain a
21 motion to grant the request of Aimal
22 Khan, M.D., relating to reactivation
23 requirements, noting Dr. Domen is
24 recused.

25 CHAIRMAN LOISELLE:

1 Do I have a motion to accept the
2 reactivation?

3 DR. YEALY:

4 So moved.

5 CHAIRMAN LOISELLE:

6 Dr. Yealy moves. Second?

7 DR. WOODLAND:

8 Second.

9 CHAIRMAN LOISELLE:

10 Dr. Woodland seconds. All in favor, say
11 aye. Any opposed?

12 [The motion carried. Dr. Domen recused himself from
13 deliberations and voting on the motion.]

14 ***

15 MS. WALTER:

16 Number 22 on the agenda, the initial
17 supervising agreement between Dawn Wang,
18 M.D. and Jennifer Elliott, PA-C.

19 I believe the Board would entertain
20 a motion to approve the written
21 agreement.

22 CHAIRMAN LOISELLE:

23 Do I have a motion to approve the
24 agreement?

25 DR. DOMEN:

1 So moved.

2 CHAIRMAN LOISELLE:

3 Dr. Domen moves. Second?

4 MS. HOWARD:

5 Second.

6 CHAIRMAN LOISELLE:

7 Pat Howard seconds. All in favor, say
8 aye. Any opposed?

9 [The motion carried. Dr. Yealy abstained from voting
10 on the motion.]

11 ***

12 MS. WALTER:

13 Number 23 on the agenda is the written
14 agreement between Stephen Dilts, M.D.
15 and Audra Sarver, PA-C.

16 I believe the Board would entertain
17 a motion to approve the agreement.

18 CHAIRMAN LOISELLE:

19 Do I have a motion to approve?

20 DR. YEALY:

21 So moved.

22 CHAIRMAN LOISELLE:

23 Dr. Yealy moves. Second?

24 DR. WOODLAND:

25 Second.

1 CHAIRMAN LOISELLE:

2 Dr. Woodland seconds. All in favor, say
3 aye. Any opposed?

4 [The motion carried unanimously.]

5 ***

6 MS. WALTER:

7 Number 24. I believe the Board would
8 entertain a motion to direct the Board
9 administrator to send the standard
10 reentry letter on the Application for an
11 Unrestricted License of Kristie Lee
12 Nelson, M.D.

13 CHAIRMAN LOISELLE:

14 Do I have a motion directing counsel to
15 do that?

16 DR. DOMEN:

17 So moved.

18 DR. DILLON:

19 Second.

20 CHAIRMAN LOISELLE:

21 Dr. Domen moves. Dr. Dillon seconds.
22 All in favor, say aye. Any opposed?

23 [The motion carried unanimously.]

24 ***

25 MS. WALTER:

1 Oliff, M.D.

2 I believe the Board would entertain
3 a motion to deny the request for
4 reconsideration.

5 CHAIRMAN LOISELLE:

6 Do I have a motion to deny the request?

7 DR. DILLON:

8 So moved.

9 CHAIRMAN LOISELLE:

10 Dr. Dillon moves. Second?

11 DR. DOMEN:

12 Second.

13 CHAIRMAN LOISELLE:

14 Dr. Domen seconds. All in favor, say
15 aye. Any opposed?

16 [The motion carried unanimously.]

17 ***

18 MS. WALTER:

19 Number 27, the Application for a Status
20 Change of the Unrestricted License of
21 Daniel Coombs Lyons, M.D.

22 I believe the Board would entertain
23 a motion to direct the Board
24 administrator to send the standard
25 reentry letter.

1 CHAIRMAN LOISELLE:

2 Do I have a motion for the Board
3 administrator to send the standard
4 reentry letter?

5 DR. YEALY:

6 So moved.

7 CHAIRMAN LOISELLE:

8 Dr. Yealy moves. Second?

9 DR. DILLON:

10 Second.

11 CHAIRMAN LOISELLE:

12 Dr. Dillon seconds. All in favor, say
13 aye. Any opposed?

14 [The motion carried unanimously.]

15 ***

16 MS. WALTER:

17 Number 28 on the agenda, the
18 Reactivation Application as a Licensed
19 Athletic Trainer or Jonna Lee Monsell,
20 LAT.

21 I believe the Board would entertain
22 a motion to grant the application for
23 reactivation.

24 CHAIRMAN LOISELLE:

25 Do I have a motion to grant the

1 application?

2 MR. EISENHAUER:

3 So moved.

4 CHAIRMAN LOISELLE:

5 Mr. Eisenhower moves. Do I have a
6 second?

7 DR. DOMEN:

8 Second.

9 CHAIRMAN LOISELLE:

10 Dr. Domen seconds. All in favor, say
11 aye. Any opposed?

12 [The motion carried unanimously.]

13 ***

14 Appointment - Act 53 List of Relevant Crimes
15 Presentation

16 [K. Kalonji Johnson, Commissioner, Bureau of
17 Professional and Occupational Affairs, addressed Act
18 53, which was signed by Governor Wolf in June 2020.
19 He noted it to be one of the most comprehensive
20 reforms of the Criminal History Records Information
21 Act (CHRIA), which was the statutory provision that
22 governed how criminal history is used in determining
23 eligibility for licensure.

24 Commissioner Johnson noted his directives to
25 publish a schedule of offenses relative to Act 53 for

1 each of the 29 boards and commissions under the
2 auspices of the Department of State and to create a
3 public forum for stakeholders to provide feedback and
4 comments. He stated the list of the offenses is not a
5 terminal list and will have to go through the
6 regulatory review process.

7 Ms. Wucinski referred to the list of crimes under
8 Act 53. She noted the violent crimes section includes
9 criminal attempt, criminal conspiracy, and criminal
10 solicitation. She also referred to sexual offenses
11 under § 3113(d), a conviction of which would result in
12 a permanent bar to licensure for any health care
13 practitioner.

14 Ms. Wucinski explained that the burden is on the
15 applicant or respondent to prove their crime should
16 not be considered if the offense they are convicted of
17 is an offense that is on the list of crimes related to
18 the profession. If the offense is not on the list,
19 the burden would be on the commonwealth to prove the
20 conviction is related to the profession..

21 Commissioner Johnson addressed preliminary
22 determination, where perspective licensees who may
23 have questions about prior criminal history can
24 petition the Board for a preliminary determination.
25 He explained that Board counsel will then be tasked

1 with examining and analyzing the information and then
2 presenting it to the perspective licensee.

3 Commissioner Johnson stated the lists will be
4 subject to change but only through the formal
5 regulatory process. He mentioned that one of the
6 reforms within Act 53 was eliminating good moral
7 character as a sole determinate of discipline.

8 Dr. Woodland referred to § 2710 regarding ethnic
9 intimidation and questioned whether there is any other
10 information concerning racial or gender intimidation
11 as well.

12 Chairman Loiselle questioned whether the Board
13 will still have the moral turpitude backstop to rely
14 on if the crime was not related to the practice of
15 medicine, but the person should not be trusted to make
16 the right decisions.

17 Commissioner Johnson explained that moral
18 turpitude as a sole determinate of suitability for
19 licensure would be gone because the intent behind Act
20 53 was to tie the analysis to the risk associated with
21 the conviction itself. He stated whether the
22 conviction created a risk of harm was really the
23 analysis. The onus on the Board would be to show that
24 risk of harm to the public when the offense clearly
25 was not enumerated as one that directly relates.

1 Commissioner Johnson noted the list determines
2 where the presumption lies, but the analysis is still
3 tied directly into the risk of harm and where moral
4 turpitude was utilized in the past is now an element
5 contained within the offense. He stated it would not
6 change the way the Board operated, and the Board would
7 still be required to look at each individual applicant
8 and licensee on an independent basis.

9 Chairman Loiselle announced Ms. Walter will be
10 getting married December 6, 2020, and wished her the
11 best from the Board and everyone associated with it.]

12 ***

13 [The Board recessed from 12:33 p.m. until 1:02 a.m.]

14 ***

15 Appointment - Act 53 List of Relevant Crimes

16 Presentation (cont.)

17 [K. Kalonji Johnson, Commissioner, Bureau of
18 Professional and Occupational Affairs, informed the
19 Board that Ms. Montgomery, Ms. Walter, and Ms.
20 Wucinski worked tirelessly to help curate the list,
21 not only from statutory construction but also looking
22 at past disciplinary precedent.

23 Cynthia K. Montgomery, Esquire, Deputy Chief
24 Counsel, Department of State, referred to the list of
25 criminal offenses draft, which is a schedule of

1 criminal convictions that may constitute grounds to
2 refuse to issue; suspend; or revoke a license,
3 certificate, registration, or permit for each
4 profession.

5 Ms. Montgomery stated the list was sent out to
6 the Board of Medicine's interested parties and
7 stakeholders. She noted receiving one comment from
8 the Pennsylvania Medical Society regarding variances
9 between the offenses listed on this Board's list and
10 the State Board of Osteopathic Medicine's list. She
11 noted counsel for both Boards compared the list and
12 resolved the differences.

13 Dr. Woodland referred to ethnic intimidation and
14 expressed concern of whether it included racial or
15 gender intimidation.

16 Ms. Montgomery addressed violent crimes, stating
17 the significance of a crime of violence is set forth
18 in § 3113(e), where an individual could receive a
19 license if it has been at least 3 years from
20 incarceration or 3 years from imposition of the
21 sentence, the individual has remained conviction-free,
22 and demonstrates significant rehabilitation. She
23 added that the Board must be convinced the individual
24 does not pose a substantial risk to the health and
25 safety of patients, clients, or the public or a

1 substantial risk of further conviction.

2 Ms. Montgomery stated the crimes on the list of
3 offenses, directly related to the profession, have a
4 rebuttable presumption, where the individual would
5 pose a significant risk to the safety of their clients
6 or the public or a significant risk of further
7 criminal convictions. She noted the individual would
8 have to prove they do not pose such a risk.

9 Ms. Montgomery reviewed crimes under § 3113(e)
10 with the prosecution division to determine which
11 crimes are directly related to the profession. She
12 provided a definition of "directly relates."

13 Ms. Montgomery addressed § 3113(d) regarding
14 sexual offenses and applies to all health care
15 practitioners.

16 Ms. Montgomery suggested the Board refer to Board
17 counsel regarding any other crimes on the list related
18 to the profession or why a particular crime is on the
19 list. She stated the meeting is for the Board to
20 discuss whether crimes should remain on the list or
21 crimes should be added to the list.

22 Ms. Montgomery explained the two-stage evaluation
23 provided in Act 53. She stated, after the list is
24 created, the Board would determine if the crime is on
25 the list by looking at sexual offenses under § 3113(d)

1 and crimes of violence at § 3113(e) for guidance. She
2 noted crimes that are directly related have a
3 rebuttable presumption, where the individual poses a
4 significant risk.

5 Ms. Montgomery stated the crimes not on the list
6 of directly related to the profession would need an
7 individualized assessment using criteria set forth in
8 § 3113(c) to determine whether the individual does
9 pose such a risk or should be granted a license
10 notwithstanding the criminal conviction. She
11 explained that just because a crime is not on the list
12 did not mean it cannot be considered.

13 Ms. Montgomery commented that Act 53 would
14 provide more transparency to the process and offer a
15 best practices guide for individuals, who have a
16 criminal conviction to be able to learn how to obtain
17 a professional or occupational license, and the lists
18 will be part of that guide and required to be included
19 on every application once this law goes into effect.

20 Ms. Montgomery noted individuals would have the
21 criteria to prove they do not pose a significant risk
22 based on the criteria in § 3113 with the exception of
23 sexual offenses and to a degree the crimes of
24 violence. She commented that this would not change a
25 lot the Board does and cases would still come before

1 the Board.

2 Ms. Montgomery noted § 5902(b) and § 5902(b.1) are
3 specifically set forth in § 3113(i) and is the
4 definition section.

5 Chairman Loiselle questioned whether Act 53 had
6 the potential for creating a situation that every
7 member of the Board votes to deny a license and Act 53
8 forces the Board to approve a license. He questioned
9 whether there is a situation with Act 53 absolutely
10 going counter to the unanimous or majority of the
11 Board to either approve or disapprove an application.

12 Ms. Montgomery noted it would only apply to
13 sexual offenses set forth in Act 53, because the
14 provision for sexual offenses is that the Board may
15 not issue a license to somebody, who has been
16 convicted of those offenses.

17 Chairman Loiselle stated the Board was formed to
18 have an opinion subjectively provided by all of the
19 various members of Pennsylvania society to have input
20 on a particular license or case and would resist
21 anything that takes it away.

22 Ms. Montgomery stated sexual crimes and violent
23 crimes were areas set forth specifically in the
24 statute, and crimes directly related to the profession
25 were up to the Board. She noted a crime being on the

1 list gives notice to the public or perspective and
2 current licensees that the Board sees these crimes as
3 directly related to the profession. She also noted a
4 conviction may cause issues obtaining or being
5 disciplined for current licensee.

6 Ms. Montgomery stated the purpose of the list is
7 to provide transparency to applicants as to how the
8 Board looks at criminal convictions and crimes that
9 are directly related.

10 Ms. Montgomery addressed preliminary
11 determination, where the Board would look at the crime
12 for an individual and decide whether it is an
13 impediment.

14 Randy Stevens, Pennsylvania Orthotic and
15 Prosthetic Society, commented that he never received
16 the list of crimes. He questioned how much discretion
17 the Board wants, because if it is already in there
18 statutorily, it is not appealable. He requested a
19 list of issues.

20 Ms. Walter explained that the applicant does have
21 the opportunity to rebut the presumption and the crime
22 that is on the list as directly related. She noted
23 the burden is on the applicant to show that even
24 though they committed the crime identified as directly
25 related to the profession that they have rehabilitated

1 themselves.

2 Chairman Loiselles stated it is best to trust in
3 those who spent time and used their expertise to
4 compile the list, because it is not comprehensive and
5 things can be added or subtracted.

6 Ms. Walter requested Board members and members of
7 the public identify crimes not directly related to the
8 profession, so it could move forward.

9 Dr. Woodland referred to § 2604(c) and § 2606
10 regarding the unborn child, where it sounds like some
11 kind of aggravated assault to a pregnant woman with
12 the intention of doing something bad against the
13 pregnancy. He expressed concerned about having his
14 entire group of constituents, who are abortion
15 providers, be in a position that is challenged by
16 this.

17 Ms. Wucinski stated violent offenses are
18 statutory, and those are all included in the act and
19 are criminal offenses.

20 Ms. Walter noted planning to add abortion on an
21 unborn child of 24 or more weeks' gestational age,
22 infanticide, and fetal experimentation.

23 Ms. Wucinski explained that those are crimes they
24 plan to add to the list of crimes related, not the
25 violent offenses.

1 Commissioner Johnson touched on the question Dr.
2 Woodland had, which was the crime listed under the
3 violent offenses that relates transferred intent,
4 where harm is done to a person who is pregnant and the
5 harm results in severe injury or death to a fetus. He
6 noted the intent, even if it was not originally
7 intended to harm the fetus, is transferred to that
8 fetus by virtue of attacking the mother.

9 Dr. Woodland commented that he did not want to
10 create a situation where every OB/GYN in the state
11 becomes subject to the issue of licensure based upon
12 any termination of pregnancy. He referred to § 2604
13 and § 2606, noting that he did not know what those
14 laws say but was assuming, as Commissioner Johnson
15 defined them, it is when aggravated assault is
16 transferred to the fetus from a pregnant woman.

17 Commissioner Johnson emphasized that all
18 decisions are still appealable, and there is no
19 implication to an applicant or licensee's right to
20 appeal a Board decision under any circumstance. He
21 noted the inclusion of an offense on this list did not
22 mean waiving of any rights.

23 Mr. Anderson clarified Dr. Woodland's question
24 concerning licensure and termination of pregnancy. He
25 stated abortion past 24 weeks, infanticide, and fetal

1 experimentation are all listed in the Abortion Control
2 Act and come into play because they are prelisted as
3 criminal offenses.

4 Mr. Anderson stated separate acts that relate to
5 a profession, including medical marijuana and abortion
6 itemize specific action chargeable as criminal
7 offenses, which is why counsel has already added them.

8 Ms. Montgomery noted a requirement in the statute
9 is that Commissioner Johnson consult with the boards
10 before he publishes this and is asking boards to
11 authorize him to move forward with publication of the
12 lists.]

13 ***

14 COMMISSIONER JOHNSON:

15 I make a motion requesting the Board
16 approve this list as currently drafted
17 for publication with the caveat that
18 this is not a terminal list.

19 CHAIRMAN LOISELLE:

20 Do we have a motion to approve the list
21 as written?

22 DR. YEALY:

23 I move.

24 DR. WOODLAND:

25 I second.

1 CHAIRMAN LOISELLE:

2 All in favor of moving the list into the
3 public forum for comment, signify by
4 saying aye. Are there any opposed?

5 [The motion carried unanimously.]

6 ***

7 [Keith E. Loisel, Chairman, Public Member, thanked
8 Commissioner Johnson for strengthening the line of
9 communication between the Board, other state agencies,
10 and the legislature.]

11 Chairman Loisel transferred the gavel to Dr.
12 Woodland and Dr. Domen in the event Dr. Woodland is
13 unable to perform the functions of Chair.

14 Chairman Loisel thanked everyone on the Board
15 and everybody associated.]

16 ***

17 Adjournment

18 CHAIRMAN LOISELLE:

19 May I have a motion to adjourn the
20 meeting?

21 VICE CHAIRMAN WOODLAND:

22 I'd like to move adjournment. Your
23 bright personality and face could never
24 fade. Thanks again for all of your
25 work.

1 COMMISSIONER JOHNSON:

2 Second.

3 CHAIRMAN LOISELLE:

4 The meeting is concluded.

5 [The motion carried unanimously.]

6 ***

7 [There being no other business, the State Board of
8 Medicine Meeting adjourned at 2:19 p.m.]

9 ***

10

11

CERTIFICATE

12

13 I hereby certify that the foregoing summary
14 minutes of the State Board of Medicine meeting, was
15 reduced to writing by me or under my supervision, and
16 that the minutes accurately summarize the substance of
17 the State Board of Medicine meeting.

18

19

20



21

Evan Bingaman,

22

Minute Clerk

23

Sargent's Court Reporting

24

Service, Inc.

25

STATE BOARD OF MEDICINE
REFERENCE INDEX

October 27, 2020

TIME	AGENDA
9:30	Executive Session
10:30	Return to Open Session
10:40	Official Call to Order
10:44	Approval of Minutes
10:45	Introduction of Audience
10:47	Roll Call
10:48	Report of Prosecution Division
10:56	Appointment - Emily Roussel, Executive Assistant for Health Innovation
11:01	Report of Commissioner
11:09	Report of Department of Health
11:23	Report of Vice Chair
11:31	Report of Board Chairman
11:43	Report of Board Counsel
11:45	For the Board's Information/Discussion
11:56	Motions
12:07	Appointment - Act 53 List of Relevant Crimes Presentation
12:33	Recess
1:02	Return to Open Session
1:02	Appointment - Act 53 List of Relevant Crimes Presentation
2:19	Adjournment