

BOARD OF MEDICAL LICENSURE AND DISCIPLINE

FULL BOARD

MINUTES OF MEETING

10 JANUARY 2007

Open Session

Minutes

Board Members in Attendance:

Thomas Breslin, MD

Norm Chapman

Margaret Coughlin

Robert Dinwoodie, DO

Joseph DiPietro, Esq.

Richard P. Iacobucci, MD

Noubar Kessimian MD

Henry Litchman, MD

Shelagh McGowan

Board Members Absent:

David R. Gifford, MD, MPH, Chair

Patrick Barry, Esq.

Charles Cronin, DO

Guest:

Uptala Bandyopadhyay, MD, DOH Communicable Diseases

Staff Members in Attendance:

Robert S. Crausman, MD, Chief Administrative Officer

Linda Julian, Investigator

Mary Salerno, Administrative Officer

1. A quorum was established at 8:35 AM.

2. On a motion by Dr. Kessimian seconded by Dr. Dinwoodie it was voted to approve the minutes of the 4 January 2007 Licensing Committee.

3. On a motion by Dr. Kessimian seconded by Dr. Iacobucci it was voted to approve the minutes of the Open Session of the 13 December 2006 meeting.

4. Chief Administrative Officer's Report

A. Dr. Bandy gave a brief presentation to the Board regarding the current standards of practice and universal precautions in the use of the metal pinwheel in neurologic sensory exams. The metal pinwheel is considered a "sharp" and therefore is subject to all current universal precautions as they relate to needle devices, which must be sterilized between uses. There are plastic disposable models on the

market that are quite appropriate. The use of a disposable safety pin is also acceptable.

B. Impartial Medical Evaluations (IME): Dr. Litchman's position paper regarding IMEs was discussed; specifically 3 points: 1) There is no physician/patient relationship in an IME; 2) The IME physician is fully liable if he/she causes harm to a patient; 3) The IME physician is not a treating provider and therefore cannot provide thoughts on treatment to the patient. If necessary, they must notify the person requesting the IME or the patient's treating physician.

C. Mr. McIntyre gave the Board an update on the recent decision by the RI Superior Court to uphold the Board's decision to revoke Dr. Russel J. Aubin's medical license. Mr. McIntyre discussed several issues relating to the case: The three hearing committee members are not required to be present at all meetings, only to have read all of the transcripts and proposals and sign off on all. Dr. Aubin's attorney challenged this rule but the judge upheld it; Statements made by the physician to hospital staff are considered hearsay in a criminal case and not allowed as evidence. Administrative law allows these statements as "Reliable Hearsay" if made in the course of a normal day; The testimony of the Massachusetts witness regarding a previous incident would normally not be allowed except when the behavior establishes a common plan motive design or a common pattern or theme of behavior; Although Dr. Aubin was found not guilty in a criminal trial the Board has a different standard of proof,

namely preponderance of evidence and guilt. This case sets a precedent for other administrative boards and will be referred to in the future.

D. Corporation name request by Dr. Richard L. Cervone: Dr. Cervone wishes to file 2 fictitious names for his current corporation that are very similar to the first. He is anticipating expansion of the corporation in the future and will have laid claim to the names. On a motion by Mrs. Coughlin seconded by Dr. Kessimian it was voted to approve the request. It was reiterated that Corporation requests could be Administratively Approved by Board staff in the future unless they are of an unusual nature such as this one.

5. Old Business:

Suggested future Board discussion: Pharmaceutical sponsored clinical research and product sales in the office. Possible related literature includes a paper by Sean David and Dean David Greer titled, "Social Marketing."

Telemedicine

6. New business:

None presented

7. At 9:00 AM the Board adjourned to Executive Session.