

## NHMS Council Meeting Minutes

5/8/24; Zoom only given Rock-n-Race at same time as scheduled meeting.

5-6:30 pm

Present: Mary West, Richard Johnson, Ross Bickford, George Letterio, Jennifer Christiansen, Audrey Kern, Nick Perencevich, Seddon Savage, Linda Martino, Frances Lim-Liberty, Ava Hawkes, Eric Kropp, Maria Boylan, Danielle Albushies, Jane Tewksbury, Todd Morrell, Gary Sobelson, Eric Loo, Oge Young, James Bartels, Travis Harker, Alan Hartford, Tessa Lafortune-Greenberg, Victoria Jones, Marc Bertrand, Stephen Bishop, Mark Windt, Patrick Ho, Neil Meehan, Amy Lee, Terra Wilkins

### 1. President Report

Maria Boylan, DO

- a. Motion to Approve minutes from 4/2024, seconded, passed unanimously.
- b. Update from Policy Process Committee.
  - i. Minutes from 12/2023 council meetings are posted on website and will be updated monthly
  - ii. Current policies will be uploaded to the website.
  - iii. Nicotine/Tobacco policy minutes say final draft completed in 2023 but no vote reported in minutes. Policy shared with the Council and discussion included the possibility to mention that vaping is a harm reduction strategy. Consensus that there is data and clinical experience to support that vaping is harmful to the lungs so there was no support to include vaping as a harm reduction strategy. It was agreed that the 4<sup>th</sup> resolve should be changed to “comprehensive policy program” and that all the resolves with tobacco should be changed to “tobacco/nicotine” The motion to re-affirm the policy was seconded and passed unanimously.
  - iv. The remaining 2 aged out policies will be discussed at future meetings: Gun violence prevention and Marijuana/CBD policy which are each over 5 years.

### 2. Director of Advocacy

Ava Hawkes

- a. Ava and Maria introduced Dr. Perencevich who is a guest who wants to communicate his desire for the NHMS to advocate for a functioning, efficient Board of Medicine of NH that will advocate for the protection of patients and timely and balanced review of the medical care pertinent to complaints filed.
  - i. Dr. Perencevich’s historical perspective was shared with the council and will be shared as an addendum to these minutes. Highlights: In 2009 there was an audit of the BOM. An Executive Director became a position which was filled by attorneys experienced in health law. New ED in 2015 with the appropriate number of staff, things running smoothly. The MRSC had a quick turnaround to determine if a physician was safe to continue to practice. When the OPLC was created the ED position was eliminated and the total staff decreased to 5.

- ii. Legislation and the Boston Globe investigation regarding care at CMC has put a spotlight on the NH BOM. Pertinent bills mentioned: HB 322, SB 107 (already law), HB 518.
  - iii. Dr. Bertrand shared that a BOM panel is being created. Dr. Perencevich inquired how an investigation is currently happening? He advocated that the review should be peer to peer by physicians, not lawyers. Who selects the members of the committee?
  - iv. The council inquired about where the current dysfunction lies: financial, interest in involvement, need for more staffing. There were concerns regarding sham peer reviews without the proper medical experts involved or an appropriate number of staff.
  - v. Discussion ensued regarding the Council's desire to learn about the historical medical malpractice review panel that was repealed. A lawyer, retired judge and physician were on the panel and would hear the details of a malpractice case. If the panel voted unanimously their conclusion would be immiscible in the court proceedings. The years of the panel led to less malpractice cases going to a jury trial which was beneficial to plaintiffs and defendants. Less cost to the entire medical system.
  - vi. Currently most cases are settled without input from physicians as medical groups are owned by hospitals systems and companies.
- b. Wed 5/15 Next Legislative Committee. NHMS opposed HB 619 – was retained passed 3 to 2.
- c. Dr. Lim-Liberty and Dr. Boylan present their draft policy on Transgender Care.
  - i. The concepts of transgender care were discussed. The Council was educated on the consent process for minors to receive transgender care and the adherence to evidence-based standards of care established through multiple societies.
  - ii. Edits to the draft policy were made and the draft policy will be distributed to the membership for comments.
  - iii. Discussion regarding how this policy is an example that will protect the sanctity of the physician, patient relationship. The language in this policy should be a common theme in advocacy for LGBTQ and reproductive health issues.
  - iv. A motion was made to accept the draft with edits to go out to the membership. The motion was seconded. Quorum present. Unanimous support, 3 abstentions.

Motion to adjourn 7 pm, seconded and approved.

Next meeting 6/12/24; 5-6:30 pm.

Submitted by Danielle Albushies

March 6, 2024

The Honorable Regina Birdsell, Chairwoman  
Senate Health and Human Services Committee  
Legislative Office Building  
33 North State Street, Room 101  
Concord, NH 03301

**Re: Testimony in support of HB 322, relative to establishing a committee to study the New Hampshire board of medicine**

Dear Chairwoman Birdsell and Members of the Senate Health and Human Services Committee:

My name is Nick Perencevich, I am a semi-retired general and vascular surgeon from Concord. From 2002 through 2019, I served in multiple roles with the Board of Medicine, including as a Medical Review Subcommittee member, board member and, lastly, as a Physician Investigator. As it appears that I may have the longest history serving the Board, I wanted to share a historical perspective in regard to the results of legislative actions going back 38 years, all of which led to audits and important improvements that helped the Board's main mission to protect the public. For context, the <sup>1</sup>Boston Globe Spotlight article two years ago about the CMC surgeon with many settlements possibly escaping proper NH Board of Medicine (BOM, or Board) scrutiny is the reason HB 322 was retained in the House last year and now before you today. The bill seeks to form a committee to study how the Board actually functions today, of which I support.

**Historical Context**

1986 – 3,000 licensees, 171 investigations (complaints, claims, and suits). A national malpractice crisis led to an influx of physicians coming to NH, and a subsequent legislative review and audit that recommended creation of the Medical Review Subcommittee (MRSC) to do the investigations and the Attorney General's APU Office to supply legal coverage. The MRSC initially had seven physicians of different specialties, a physician assistant and two public members, covering the most common complaints. They did the investigations and made recommendations for Board actions. The APU eliminated the cost and need to hire outside attorneys and, as such, the staff grew from two to three.

1999 – 6,000 licensees, 450 investigations. The doubling of licensees and tripling of investigations led to legislation, audits, and the creation of the position of Physician Investigator. The Physician Investigator, hired as an independent contractor in case a member of the MRSC or Board needed to be investigated, was expected to review all cases needing investigation, work

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<sup>1</sup> <https://apps.bostonglobe.com/2022/09/07/metro/investigations/spotlight/trail-of-secrets-and-death/manchester-surgeon-lives-on-the-line/>

with staff, now increased from three to four, and find outside expert reviewers if the expertise is not on the MRSC. From 1999 through 2023, there were five Physician Investigators.

2009 – 6,500 licensees, 500 investigations. Complaints about inefficiency and backlog led to legislation, an audit, and the creation of the Executive Director of the Board and increase of staff from four to five. From 2009 through 2015, there were two Executive Directors, both attorneys with a health law and administration backgrounds.

2015 – 7,000 licensees, 540 investigations. The OPLC was created. The BOM moves from DHHS to OPLC. Executive Director of the BOM becomes Executive Director of the OPLC, and not replaced. The needed expansion of the MRSC at the time was not supported by the OPLC, but supported by the Legislature. Radiology and pain/anesthesia were added as MRSC positions. THE LATER as a result of THE opioid crisis. Staff reduced from five to three.

2019 – 7,800 licensees, 560 investigations. The OPLC goes through three more Executive Directors. The BOM staff reduced from three down to two by 2019. Then, in 2021, the Boston Globe Spotlight investigation reports on the CMC and NH BOM issues (Sept. 8-9, 2022 Boston Globe front pages).

2023 – Last year, the entire MRSC and the Physician Investigator position were eliminated. At this time, the public, and licensees alike, are not aware of how investigations are now being done without these entities.

The history of the needs of the BOM and the MRSC being supported by the Legislature must continue. This bill is a good first step in better understanding the current process and future functions of the Board. The main mission of the BOM is to protect the public and, at the same time, ensure due diligence and due process for the public and the licensee in a timely fashion. Passing HB 322 will likely lead to recommendations for changes which, as in the past, will support the Board in accomplishing its mission.

I am submitting written testimony in support of HB 322 as an individual, an individual who also happens to have 17 years of BOM experience including eight years total on the MRSC (2002-2008, 2012-2014), four years as a BOM member (2008-2012), and five years as a Physician Investigator (2014-2019). Thank you for your time and consideration of my testimony. Please do not hesitate to contact me with any questions at [nperencevich@gmail.com](mailto:nperencevich@gmail.com), CELL 603-545-7114.

Respectfully submitted,

Nick Perencevich, MD  
Clinical Associate Professor of Surgery, Geisel School of Medicine at Dartmouth  
NH Board of Medicine (2002-2019)