

OREGON MEDICAL BOARD
Meeting of the Board • April 3-4, 2014

The Oregon Medical Board (OMB or “Board”) held a regular quarterly meeting on Thursday and Friday, April 3 - 4, 2014, at the OMB offices, 1500 SW 1st Ave. Ste. 620, Portland. Chair Donald Girard, MD, called the meeting to order at 8:30 a.m. A quorum was present, consisting of the following members:

Donald Girard, MD, Chair, Portland	Roger McKimmy, MD, Eugene
Michael Mastrangelo Jr , MD, Vice Chair, Bend	Terry Smith, Springfield*
George Koval, MD, Secretary, Lake Oswego	Shirin Sukumar, MD, West Linn
K. Dean Gubler, DO, Portland	Angelo Turner, Portland*
Clifford Mah, DPM, Portland	W. Kent Williamson, MD, Portland

Drs. Fisher and White were absent by prior notification.

*Public Members

Staff, consultants and legal counsel present:

Kathleen Haley, JD, Executive Director	Theresa Lee, Investigative Assistant
Joseph Thaler, MD, Medical Director	Mark Levy, Senior Software and Systems Administrator
Jessica Bates, HR Manger	Terry Lewis, Compliance Officer
Eric Brown, Chief Investigator	Dave Lilly, Investigator
Stacey Burns, Physician Licensing Specialist	Shayne Nylund, Acupuncture Licensing Assistant
Catherine Cook, Licensing Specialist	Netia Miles, Licensing Manager
Randy Day, Complaint Resources Officer	Michele Provinsal, Investigations Coordinator
Kimberly Fisher, JD, Interim Operations & Policy Analyst	Michael Seidel, Investigator
Warren Foote, JD, Senior Assistant Attorney General	Mei-Mei Wang, Investigator
Walter Frazier, Investigator	Vickie Wilson, Assistant Chief Investigator
Magnus Lakovics, MD, Psychiatric Consultant	

OMB Committee members and guests present:

Lanny Bennett, Security	Scott Gallant, Board Lobbyist
Len Bergstein, ZoomCare	Henry Grass, MD, Member of the Public
Bruce Bishop, JD, NW Permanente	Susan T. Haney, MD, Member of the Public
Joseph Bloom, MD, Board Consultant	Molly Burns Herrman, JD, NW Permanente
Devin G. Bost, Member of the Public	Michael Jordan, Department of Administrative Services COO
Jim Conway, Member of the Public	Doug Kelly, Paramedic, EMS Advisory Committee Chair (via telephone)
Gwen Dayton, JD, Oregon Medical Association	Jennifer Van Atta, PA-C, Physician Assistant Advisory Committee Chair
Albert DiPiero, MD, ZoomCare	Timothy Walker, Legislative Fiscal Analyst
Dennis Dalton, Security	

Thursday, April 3, 2014

8:30 a.m. – CALL TO ORDER

Donald Girard, MD; Chair of the Board

ANNOUNCEMENT OF EXECUTIVE SESSION – Donald Girard, MD, Board Chair, announced that pursuant to ORS 192.660(1)(2)(a)(f)(k), the Oregon Medical Board would convene in Executive Session to consider records that are exempt by law from public disclosure, including information received in confidence by the Board, information of a personal nature the disclosure of which would constitute an invasion of privacy, and records which are otherwise confidential under Oregon law.

EXECUTIVE AND CLOSED SESSIONS – Executive Sessions were conducted pursuant to ORS 192.660(1)(2)(a)(f)(k). Deliberations and Probationer Interviews took place in closed sessions, pursuant to ORS 441.055(9).

PUBLIC SESSIONS AND BOARD ACTIONS – The Board reconvened in Public Session prior to taking any formal, final action (shown in these minutes as **BOARD ACTION:**). Unless otherwise indicated, all matters involving licensee or applicant cases include votes. Vote tallies are shown as follows: Ayes – Nays – Abstentions – Recusals – Absentees.

RECUSALS AND ABSTENTIONS – Where noted, Board members have **recused** themselves from discussion of any particular case or abstained from the final vote. To **recuse** means the Board member has actually left the room and not discussed or voted on the disposition of the case. To **abstain** means the Board member may have taken part in the discussion of the case, but chose to not cast a vote on its disposition.

Dr. Girard took roll call. Drs. Fisher and White were absent by prior notification.

<i>Licensee</i>	<i>Case #</i>	<i>Complaint #</i>	<i>Investigator</i>	<i>Board Reviewer</i>
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PUBLIC SESSION

New Board Member Affirmation				DG
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Dr. Girard swore in Kelly Dean Gubler, DO, to the Oregon Medical Board, as the newest Board member.

EXECUTIVE SESSION

Public Meeting Information		#		DG
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Warren Foote, JD, Assistant Attorney General, reviewed public meeting laws and information regarding recusals.

LIENHARDT, Ashley, E., PA		#	DL	SS
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Dr. Sukumar reviewed the case.

BOARD ACTION: Dr. Sukumar moved that in the matter of Ashley E. Lienhardt, PA, the Board approve the Corrective Action Agreement signed by Applicant on March 17, 2014, and approve the Applicant’s Physician Assistant application. Dr. Koval seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

ANDREWS, David A., MD		#	TL	DG
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Dr. Girard reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of David A. Andrews, MD, the Board approve the Stipulated Order signed by Licensee on March 13, 2014. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

BLACKBURN, Roy M., III, MD		#	MW	SS
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Dr. Sukumar reviewed the case.

BOARD ACTION: Dr. Sukumar moved that in the matter of Roy M. Blackburn, III, MD, the Board issue a Complaint & Notice of Proposed Disciplinary Action based on a possible violation of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a), ORS 677.190(13), and 677.190(24). Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

BOOKWALTER, Matthew M., DPM	<i>Supervision</i>		TL	SS
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Dr. Sukumar reviewed the case.

BOARD ACTION: Dr. Sukumar moved that in the matter of Matthew M. Bookwalter, DPM, the Board approve the Licensee’s request to terminate his 2009 Corrective Action Agreement. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

BOST, Dawn E., MD		#	TL	AT
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Mr. Turner reviewed the case.

BOARD ACTION: Mr. Turner moved that in the matter of Dawn E. Bost, MD, the Board issue a Complaint and Notice of Proposed Disciplinary Action based on possible violations of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a). Dr. Mastrangelo seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

BRANCH, Benjamin F., DO	Supervision		TL	AT
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Mr. Turner reviewed the case.

BOARD ACTION: Mr. Turner moved that in the matter of Benjamin F. Branch, DO, the Board approve the Licensee's request to terminate his 2012 Stipulated Order. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

DAY, Floyd D., MD	Supervision		TL	DG
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Dr. Girard reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Floyd D. Day, MD, the Board approve the Licensee's request to terminate his 2005 Stipulated Order. Ms. Smith seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

ELLISON, John H., MD	Supervision		TL	AT
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Mr. Turner reviewed the case.

BOARD ACTION: Mr. Turner moved that in the matter of John H. Ellison, MD, the Board approve the Licensee's request to terminate his 2002 Corrective Action Agreement. Dr. Koval seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

FITZSIMONS, Josephine M., MD		#	RD	DG
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Dr. Mastrangelo recused himself and left the room. Dr. Girard reviewed the case.

BOARD ACTION: Dr. McKimmy moved that in the matter of Josephine M. Fitzsimons, MD, the Board approve the Corrective Action Agreement signed by Licensee on February 10, 2014. Dr. Williamson seconded the motion. The motion passed 9-0-0-1-2. Drs. Fisher and White were absent.

Name Redacted		#	TL	MM
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Dr. Mastrangelo reviewed the case.

The Board took no official action.

HOOPER, Lawrence H., Jr., MD		#	EB	MM
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Drs. McKimmy and Williamson recused themselves and left the room. Dr. Mastrangelo reviewed the case.

Dr. Mastrangelo moved that in the matter of Lawrence H. Hooper Jr., MD, the Board deny the Applicant's request for a re-hearing. The motion passed 8-0-0-2-2. Drs. Fisher and White were absent.

<i>Name Redacted</i>		#	<i>MS</i>	<i>SS</i>
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Dr. Sukumar reviewed the case.

BOARD ACTION: Dr. Sukumar moved that in the matter of case (*redacted*), the Board rescind the Order for Evaluation. Ms. Smith seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

<i>Name Redacted</i>		#	<i>MS</i>	<i>MM</i>
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Dr. Mastrangelo reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of case (*redacted*), the Board issue an Order for Evaluation. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

GREGORY, Winn H., MD		#	<i>RD</i>	<i>MM</i>
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Dr. Mastrangelo reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Winn H. Gregory, MD, the Board approve the Corrective Action Agreement signed by Licensee on March 12, 2014. Mr. Turner seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

HANSEN, Vincent E., MD		#	<i>DL</i>	<i>AT</i>
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Mr. Turner reviewed the case.

BOARD ACTION: Mr. Turner moved that the matter of Vincent E. Hansen, MD, the Board approve the Corrective Action Agreement signed by Licensee on January 8, 2014. Dr. Sukumar seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

HELMAN, Edward A., MD		#	<i>MW</i>	<i>DG</i>
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Dr. Girard reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Edward A. Helman, MD, the Board issue a Complaint and Notice of Proposed Disciplinary Action based on possible violations of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a), and ORS 677.190(13). Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

HSU, Monica, MD		#	MW	WKW
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Dr. Williamson reviewed the case.

BOARD ACTION: Dr. Williamson moved that in the matter of Monica Hsu, MD, the Board approve the Corrective Action Agreement signed by Licensee on March 11, 2014. Dr. Sukumar seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

JEAN-BAPTISTE, Firmine, MD		#	MW	MM
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Drs. Koval and Williamson recused themselves and left the room. Dr. Mastrangelo reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Firmine Jean-Baptiste, MD, the Board issue a Complaint and Notice of Proposed Disciplinary Action based on possible violations of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a) and ORS 677.190 (13). Dr. Sukumar seconded the motion. The motion passed 8-0-0-2-2. Drs. Fisher and White were absent.

LIU, Michael L.S., MD		#	MW	MM
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Dr. Mastrangelo reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Michael L.S. Liu, MD, the Board approve the Stipulated Order signed by Licensee on February 19, 2014. Dr. Koval seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

LOONEY, Warren H., MD	Supervision		TL	AT
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Mr. Turner reviewed the case.

BOARD ACTION: Mr. Tuner moved that in the matter of Warren H. Looney, MD, the Board approve the Licensee's request to terminate his 2006 Stipulated Order. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

MURRAY, Scott M., MD		#	DL	DG
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Dr. Girard reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Scott M. Murray, MD, the Board issue a Complaint and Notice of Proposed Disciplinary Action based on possible violation of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a), and ORS 677.190(13). The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

PUBLIC SESSION

WORKING LUNCH	Dr. Albert DiPiero, Co-Founder of ZoomCare, will speak to the Board.
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Dr. Girard welcomed Dr. Albert DiPiero, Co-Founder of Zoomcare, and Mr. Len Bergstein, ZoomCare Lobbyist, to the meeting. Dr. DiPiero thanked the Board for inviting ZoomCare back to present to the Board their research. Dr. DiPiero stated that his goal was to update the Board

on the use of voice and video internet technology as part of spectrum of methods to deliver primary and urgent care.

In October 2011, ZoomCare began to offer visits over the internet and this was done in close consultation with the Board. At the time of the launch, the Board had questions regarding feasibility of delivering in this method, the safety, protocols that would be used, and the outcomes of this type of care. These findings have been submitted to JAMA and are being reviewed for publication.

ZoomCare is a privately held, family owned, Oregon company. ZoomCare began with one clinic eight years ago in Tigard, Oregon. The co-founders created a company that would focus on a proto-typical patient that they call Sarah. Sarah represents the patient that they try to serve every day and that they have built a company that is devoted to meeting Sarah's unmet needs in health care, specifically affordable, easy access, high efficiency, and affordable care in her neighborhood.

In the past eight years, Zoomcare has built a company that has highly efficient and high technology medical clinics in every neighborhood in Portland and Seattle. ZoomCare is open every day of the year and each market has clinics that are open until midnight. ZoomCare delivers care with a team of physicians, nurse practitioners, and physician assistants in a supervised model that utilizes technology such as smartphones. ZoomCare has expanded from having just urgent care to now also having several specialties including cardiology, podiatry, and mental health. ZoomCare has expanded to 22 clinics in Portland, Salem, Vancouver, and Seattle. Part of that expansion included the remote visit that ZoomCare calls the TakeOut® visit.

Senate Bill 24 was enacted in 2009 that provided a framework for delivering telemedicine remote care. The Bill has many limitations. Senate Bill 1560 was introduced in the 2014 session and the outcome was a work group that will be established to bring the bill back in the subsequent session.

The primary authors of the research findings are Patrick Burnett, MD, Albert DiPiero, MD, PhD, Dongseok Choi, PhD, Christine Flores, MPH, Hayley Kum, MS, and Donald Girard, MD. All prior studies the authors reviewed have involved encounters with established patients or encounters where there is a provider or someone with some medical knowledge or skill at the other end of the camera, and most commonly the provider at the other end is receiving a consultation from a specialist. Dr. DiPiero specified that they believe this is the first study where patients are new or are self-scheduling visits.

Dr. DiPiero stated ZoomCare does accept insurance and self-pay, but in Oregon, however, insurance companies are not reimbursing for telemedicine visits. All telemedicine visits are self-pay.

This was a retrospective chart review of every internet based patient encounter from the first visit in October 2011 through June 30, 2012. Clinical data was extracted from their data warehouse that is connected to the electronic medical records and a direct chart review was also performed. Subject identifiers were assigned prior to the records being passed on to the researchers for

analysis. An audit was also performed of 10% of the records for accuracy to confirm that they were capturing and recording data correctly.

For the remote care itself, ZoomCare uses Skype®. ZoomCare has rules on who can receive a Skype® visit. Those rules include: the patient must be over the age of 18, the patient must physically be present in Oregon, the appointment must be scheduled online or by phone, the cost of the visit at the time of the study was \$49.00, and the reason for the visit must be one of 16 conditions. Some of those conditions include acne, allergies, minor diarrhea, rashes, sore throat, and vaginal yeast infections. Each of the 16 conditions has written protocols that providers are trained on that include red flag criteria. For example, if during scheduling or during the appointment, if any of the red flag criteria is identified, the Skype® visit is terminated and the patient is referred to ZoomCare for an in-person evaluation. The cost of the Skype® visit is then applied to the patient's in-person appointment at ZoomCare.

The visit is scheduled by the patient either online or via telephone. Afterwards, a provider contacts the patient and confirms the patient's demographics and the reason for the visit. A photo ID is required to confirm the patient's age and then at that time, the visit is conducted. A history is taken, the examination is performed via webcam, and the patient may assist in performing the physical parts of the exam. If the patient meets the criteria, the patient will be referred for an in-person visit per protocol or at the provider's discretion.

The results were a total of 458 unique patients and a total of 478 consecutive patient visits during the study period. Dr. DiPiero presented a graph of patient demographics. A total of 435 patients had one online visit, 20 patients had two online visits and one patient had three online visits. Established patients made up 43.6% of online visits and 56.4% were new patients. Although the Skype® visits are all self-pay, 28.9% of the Skype® patients had used insurance in the past and 71.1% had not used insurance previously. All the Skype® visits were performed either by family nurse practitioners (FNP) or by physician assistants (PA). Roughly 75% of the Skype® visits were performed by a PA and 25% by a FNP. Of the 478 visits, approximately 82 patients were referred for an in-patient visit, about 17.2%. Out of those 82 patients, 75 patients complied with the recommendation for an in-person visit.

Dr. DiPiero presented a chart regarding what the patients selected for their reason for their online visit. Sinusitis was listed as the most common reason, along with UTI and rashes. A chart regarding prescriptions, x-ray, and lab tests that were ordered was also presented by Dr. DiPiero. Of the 396 completed Skype® visits, 358 (90.4%) resulted in having a prescription written, while out of the 75 patients referred for an in-person visit, 58 (77.3%) resulted in a written prescription. Labs ordered was significantly higher for the patients that had an in-person visit.

Dr. DiPiero stated seven patients who were referred for an in-person visit did not come in. Of these seven patients, five were later contacted by phone and reported that they clinically well without further intervention. One person at a subsequent visit at ZoomCare stated their initial complaint was resolved and only one person was lost to follow-up out of the 478 patients.

Following protocols is extremely important when carrying out an online visit. A 20% sample of the 396 patients whose visits were completed online was checked to see whether the providers

were following protocol. None of the online or in-person visits resulted in an emergency department referral, a hospitalization or a call to 911.

Mr. Turner inquired about ZoomCare's mission statement and what the policy is for patients who cannot pay in full or cannot pay at all and whether ZoomCare does charity care. Dr. DiPiero responded that ZoomCare's team mission is to build the world's first neighborhood and smartphone based health system to provide easy access to care. He also stated ZoomCare does not have a pay later approach and payment for a Skype® visit is required prior to the initiation of the visit. There is a ZoomCare Foundation which provides free care at the clinic located on Mississippi (Portland).

Dr. Sukumar thanked Dr. DiPiero for his presentation and inquired how ZoomCare takes in consideration HIPAA laws in regards to their online visits. Dr. DiPiero responded patients are walked through the privacy policy during the scheduling process. Dr. Sukumar asked whether any of the online patients requested any opioid prescriptions and Dr. DiPiero stated only Robitussin with Codeine is ever prescribed and that other controlled substance prescriptions, such as Vicodin, are never prescribed.

Dr. Koval stated he is very concerned about the frequent prescribing of antibiotics to patients with confirmation of an infection and stated many physicians are being accused of over prescribing antibiotics to their patients. Dr. DiPiero believes a big hole in this study is not having a good control group. He believes this study's prescribing needs to be compared with patients that had in-person visits and that will be the core of the next study. While there is a comparison available, it is not a good control because it is a select population. Possibly a ZoomCare Skype visit versus a ZoomCare in-person visit, or a Skype® visit versus a different health system visit would be a good comparison. Dr. Girard said the next step is to look at ZoomCare first in regards to Dr. Koval's concern. Dr. Girard feels comparing ZoomCare to another system would include complex variables that would make interpreting the results difficult.

Dr. Thaler asked what kind of follow-up is being done with the Skype® patients. For example, a patient with bronchitis is that patient being consoled about not smoking, or is a female patient with a UTI being counseled on use of birth control? Are these patients being asked to follow-up with their primary care physician or is ZoomCare doing this follow-up? Dr. DiPiero stated these follow-up issues are being done during the Skype® visit, just as they would during an in-person visit. ZoomCare wants patients to receive their primary care at ZoomCare.

Dr. Williamson stated this is groundbreaking work and thanked Dr. DiPiero for presenting to the Board. Dr. Williamson wanted clarification on what made a patient an established patient and what designates the difference between one or two visits. Dr. DiPiero responded that an established patient was any Skype® patient who had previously been seen at ZoomCare and the number of visits is in regards to the number of Skype® visits within the study period.

Dr. Williamson inquired whether Zoomcare has a quality review process. Dr. DiPiero responded that ZoomCare has a detailed review and supervision process. Dr. DiPiero provided some details

of ZoomCare’s review process that include geographic zones, monthly provider score cards, chart review, and Zoom University sessions.

Dr. Mastrangelo thanked Dr. DiPiero for his excellent presentation. Dr. Mastrangelo asked whether or not Dr. DiPiero has data in regards to the reliability and consistency between providers. Dr. DiPiero stated ZoomCare does have the data, but the data is not matched up with the study. Dr. Mastrangelo recommended if ZoomCare does have the data in regards to the consistency and reliability between providers, then ZoomCare can use their patients as an internal control.

Dr. Gubler questioned whether or not a patient outside of Oregon would be seen and Dr. DiPiero responded that a patient outside of the state of Oregon would never be seen. ZoomCare requires a photo ID and credit card information and the information is used to verify a patient’s location. Dr. Gubler inquired whether or not there is information in regards to those patients who drop out during the initial process and are not seen by a provider. Dr. DiPiero responded they do not have data in regards to the patients who were not seen or dropped out during the scheduling period.

Ms. Haley asked Dr. DiPiero to enlighten the Board on ZoomCare’s provider training. Dr. DiPiero stated ZoomCare providers are trained on ZoomCare protocols and providers are required to attend Zoom University sessions one day a month where protocols are reviewed and evaluated.

Dr. Girard expressed the Board’s appreciation to Dr. DiPiero for his presentation.

PUBLIC COMMENT		<i>DG</i>
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Dr. Girard introduced Dr. Henry Grass, an experienced psychiatrist in Oregon, who has a long track record for helping physicians who have psychiatric issues. Dr. Girard also stated that Dr. Grass was very active in the Health Professionals Program (HPP) and in the transition into the Health Professionals’ Services Program (HPSP) as a member of the Oregon Psychiatric Association. Dr. Girard asked Dr. Grass for his thoughts on how HPSP could improve their program in order to better meet the needs of the physicians in HPSP.

Dr. Grass gave a brief overview of physician substance abuse programs in Oregon starting in the 1970’s. Starting in the early 1990’s, Oregon was in the forefront for establishing confidential substance abuse care for physicians and that became the HPP program. Later in 2009, the Oregon Legislature became involved and a new program was created, the Health Professionals’ Services Program (HPSP). Because of the creation of HPSP, the HPP program was basically dismantled and became less user-friendly. The new HPSP program was given to the Oregon Health Authority who contracted with Reliant Behavioral Health (RBH) who then created HPSP. With the new law, RBH provides monitoring.

The Oregon Psychiatric Association, in working with the Oregon Medical Board and the Oregon Medical Association, attempted to get the law changed and was successful. The law was rewritten about a year and a half ago. Each board can establish or contract with a treatment organization. Dr. Grass stated that there was discussion about the implementation of a “new-age

HPP” that would be a triage for physicians and this idea is still being worked on. The goal is to have a treatment program that has a “store-front” where physicians can go if they are having issues and wish to seek help. Dr. Grass stated a program like this is expensive to set up. Dr. Grass feels legislatively a program like this can be implemented, but the cost is a barrier. Dr. Grass expressed that he feels because of the tremendous turnover, and because of the loss of their physician consultant, the HPSP program at this time is not able to meet the needs of the physicians in the program.

Dr. Williamson thanked Dr. Grass for speaking to the Board. Dr. Williamson stated the Board has strong feelings of loss in regards to the HPP program. He stated the Board is supportive of those wishing to rekindle portions of HPP and are committed to partnering with those who want to make this happen.

Dr. Grass expressed that this is an urgent problem and that one doctor a day nationally commits suicide. Dr. Grass stated those needing help become “freaked out,” and live in fear of what comes next. If treatment can be available and be viewed as appealing to those needing help, they can be helped before they get reported.

Dr. Koval stated he has presented some of his concerns to the major hospital system in his area about the need for such a program. He stated one answer that was returned to him was that there are early assistance programs available, such as Wellspring; however, Dr. Koval feels the three free consultations that Wellspring offers do not give an adequate opportunity. Dr. Grass stated Wellspring is an 800 number and every physician he has spoken to is unaware of Wellspring’s existence. Dr. Grass also stated that when dealing with physicians in trouble, it has never occurred to him to use Wellspring as a resource.

Dr. McKimmy stated in Lane County a physician wellness program has been established. Physicians in trouble have a fear of mandatory reporters and how a mandatory report to the Board may result in a Board Order. Dr. Grass responded in that he tells his patients that the Medical Board wears two hats. One is to protect the public and the other is to help the physician to get and stay well.

Dr. Grass expressed his enjoyment reading the Board’s newsletter, but believes from time-to-time the newsletter should address physician rehabilitation. Dr. Girard responded Kathleen Haley, the Board’s Executive Director, is out in the community talking to physicians about the Board’s concerns regarding their wellness and how the Board is here to assist.

Dr. Sukumar thanked Dr. Grass for his insightful comments and stated the Board appreciates his time. Dr. Sukumar asked Dr. Grass what his recommendations would be for the treatment program when the HPSP program has that option. Dr. Grass responded the Colorado Physician Health Program in Denver does in-house assessments and evaluations and also provides sub-specialists that deal with physicians either individually or in a group. The Colorado program doesn’t offer all their treatment in-house, but mostly does reliable assessments. Dr. Grass feels similar program would work well in Oregon.

Dr. Girard thanked Dr. Grass for speaking to the Board and for sharing his thoughts.

EXECUTIVE SESSION

PERRY, Bruce E., MD		#	RD	WKW
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Dr. Williamson reviewed the case.

BOARD ACTION: Dr. Williamson moved that in the matter of Bruce E. Perry, MD, the Board approve the Corrective Action Agreement signed by Licensee on January 23, 2014. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

PUTZER, Thomas J., MD		#	TL	RM
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Dr. McKimmy reviewed the case.

BOARD ACTION: Dr. McKimmy moved that in the matter of Thomas J. Putzer, MD, the Board issue a Complaint and Notice of Proposed Disciplinary Action based on possible violations of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a),(b) and (c), ORS 677.190(13), ORS 677.190(17), ORS 677.190(23), and ORS 677.190(24). Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

REDFERN, Craig C., DO		#	RD	SS
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Dr. Sukumar reviewed the case.

BOARD ACTION: Dr. Sukumar moved that in the matter of Craig C. Redfern, DO, the Board issue a Complaint and Notice of Proposed Disciplinary Action based on possible violations of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a) and ORS 677.190(13). Dr. Koval seconded the motion. The motion passed 9-1-0-0-2. Mr. Turner voted nay and Drs. Fisher and White were absent.

RIVAS, Henry R., MD		#	MW	SS
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Dr. Sukumar reviewed the case.

BOARD ACTION: Dr. Sukumar moved that in the matter of Henry R. Rivas, MD, the Board issue a Complaint and Notice of Proposed Disciplinary Action based on possible violations of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a) and ORS 677.190(13). Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

ROBERTS, Warren G., MD		#	MW	WKW
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Dr. Girard and Mr. Tuner recused themselves and left the room. Dr. Williamson reviewed the case.

BOARD ACTION: Dr. Williamson moved that in the matter of Warren G. Roberts, MD, the Board issue a Complaint and Notice of Proposed Disciplinary Action based on possible violations of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a) and

(b), and ORS 677.190(13). Dr. McKimmy seconded the motion. The motion passed 8-0-0-2-2. Drs. Fisher and White were absent.

ROBINSON, Gregory E., MD	<i>Supervision</i>	<i>TL</i>	DG
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Dr. Girard reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Gregory E. Robinson, MD, the Board approve the Licensee's request to terminate his 2012 Stipulated Order. Dr. Koval seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

STADTLANDER, Sean M., MD	<i>Supervision</i>	<i>TL</i>	RM
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Dr. McKimmy reviewed the case.

BOARD ACTION: Dr. McKimmy moved that in the matter of Sean M. Stadlander, MD, the Board approve the Licensee's request to terminate his 2011 Corrective Action Agreement. Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

STAPLETON, Joseph P., MD		<i>#</i>	<i>TL</i>	RM
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Dr. McKimmy reviewed the case.

BOARD ACTION: Dr. McKimmy moved that in the matter of Joseph P. Stapleton, MD, the Board issue a Complaint and Notice of Proposed Disciplinary Action based on possible violations of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a). Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

STARK, Allen L., MD		<i>#</i>	<i>DL</i>	DG
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Dr. Girard reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in that matter of Allen L. Stark, MD, the Board approve the Corrective Action Agreement signed by the Licensee on February 12, 2014. Dr. Koval seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

TABOR, Mark E., PA		<i>#</i>	<i>MW</i>	WKW
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Dr. Williamson reviewed the case.

BOARD ACTION: Dr. Williamson moved that in the matter of Mark E. Tabor, PA, the Board approve the Corrective Action Agreement signed by the licensee on March 13, 2014, closing cases 13-0137 and 13-0715. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

CLOSED SESSION

Probationer Interviews

The Board members conducted interviews of the following Board licensees/probationers:

Board Member	Licensee	Room No.
Dr. Mah	<i>Name Redacted</i>	1
Dr. Koval	<i>Name Redacted</i>	2
Dr. Williamson <i>Observer: Dr. Gubler</i>	<i>Name Redacted</i>	3
Dr. Sukumar <i>Observer: Ms. Smith</i>	<i>Name Redacted</i>	4

PUBLIC SESSION

Update on Executive Director Position **DG**

Jessica Bates, Human Resource Manager, presented to the Board information regarding the salary disparity in relation to the Executive Director position at the Oregon Medical Board and a newly hired Executive Director salary at a different state board. The Board unanimously agreed that this matter should be moved forward to be appropriately addressed.

CLOSED SESSION

Probationer Interview Reports

The Board members reported on probationer interviews.

EXECUTIVE SESSION

TYLER, Jeffrey R., MD **DG**

Dr. Girard reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Jeffrey R. Tyler, MD, the Board amend Licensee's Complaint and Notice of Proposed Disciplinary Action for a possible violation of the Medical Practice Act, ORS 677.190(1)(a), as defined in ORS 677.188(4)(a), and ORS 677.190(13). Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

VAJDOS, Margaret A., MD **WKW**

Dr. Williamson reviewed the case.

BOARD ACTION: Dr. Williamson moved that in the matter of Margaret A. Vajdos, MD, the Board approve the Corrective Action Agreement signed by Licensee on March 6, 2014. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

WILSON, Benjamin R., MD **DG**

Dr. Girard reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Benjamin R. Wilson, MD, the Board approve the Licensee's request to terminate term 5.9 of his 2007 Order Modifying Stipulated Order. Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

WONG, Charles M., MD		#	RD	RM
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Dr. McKimmy reviewed the case.

BOARD ACTION: Dr. McKimmy moved that in the matter of Charles M. Wong, MD, the Board approve the Stipulated Order signed by Licensee on March 12, 2014. Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

Name Redacted		#	EB	DG
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Dr. Sukumar recused herself and left the room. Dr. Girard reviewed the case.

The Board took no official action, but provided direction to staff.

BERNARDO, Peter A., MD		#	MW	RM
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Dr. Mastrangelo recused himself and left the room. Dr. White was recused and was absent. Dr. McKimmy reviewed the case.

BOARD ACTION: Dr. McKimmy moved that in the matter of Peter A. Bernardo, MD, the Board approve the Stipulated Order signed by Licensee on March 15, 2014. Dr. Williamson seconded the motion. The motion passed 9-0-0-2-1. Drs. Fisher and White were absent.

Board Recessed until 8 A.M. Friday, April 4 - 6 p.m. - Working Board dinner

Friday, April 4, 2014

Dr. Girard introduced and thanked Michael Jordan, the COO of the Department of Administrative Services, for joining the meeting.

PUBLIC SESSION

Reporting to National Databanks

GK

Kimberly Fisher, JD, Interim Operations & Policy Analyst, presented the newest edition of the Rights, Regulations & Responsibilities Handbook and an outline of databank reporting responsibilities. Dr. Girard thanked Ms. Fisher for her report.

Dr. Girard took roll call. Drs. Fisher and White were absent by prior notice.

Drs. Girard, Williamson, McKimmy, and Ms. Smith excused themselves from the meeting to speak with Mr. Jordan and the Board took a recess.

EXECUTIVE SESSION

GOLIAN, Nader, MD

ID# 1023210

Application

CM

Dr. Mah reviewed the case.

BOARD ACTION: Dr. Mah moved that in the matter of Nader Golian, MD, the Board approve the Applicant's request to withdraw his application for licensure without report to the DataBank. Ms. Smith seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

FRITZ, Stephen B., MD

ID# 1024282

Application

GK

Dr. Koval reviewed the case.

BOARD ACTION: Dr. Koval moved that in the matter of Stephen B. Fritz, MD, the Board grant the Applicant an active license. Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

GRAY, Thomas C., DO

ID# 1024850

Application

CM

Dr. Mah reviewed the case.

BOARD ACTION: Dr. Mah moved that in the matter of Thomas C. Gray, DO, the Board grant the Applicant full licensure. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

KREMEN, Alan F., MD

ID# 1023700

Application

DG

Dr. Girard reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Alan F. Kremen, MD, the Board approve the Applicant's request to withdraw his application without a report to the DataBank. Dr. Williamson seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

PUBLIC SESSION

Emergency Medical Services (EMS) Advisory Committee

DG

Via telephone, Doug Kelly, Paramedic, EMS Advisory Committee Chair, presented to the Board. Mr. Kelly reviewed the EMS Advisory Committee meeting of February 21, 2014.

Mr. Kelly reported the EMS Advisory Committee reviewed OAR 847-035-0030, which encompasses several changes to the Scope of Practice. The first is a rule amendment that expands the EMR to prepare and administer Naloxone (Narcan) for suspected opioid overdose via intranasal or autoinjector device. The second item is to clarify that only advanced EMTs may obtain peripheral venous blood specimens and to clarify the paramedic Scope of Practice to allow the arterial withdrawal of blood specimens. Lastly, the review of the paramedic Scope of Practice change for urinary catheters.

Mr. Kelly stated the suggested change to the urinary catheter terms was brought before the Committee with two viewpoints. One was for patients who may not be a trauma patient, but are being transported via ambulance from one facility to another facility and will have a long transport time. These patients are being given Lasix (Furosemide) before the transport is originated. Secondly, because the community paramedics are doing home visits and assisting, monitoring, or moving urinary catheters, there are some concerns among the Board members on how this came about.

Dr. McKimmy stated he had spoken with Dr. Chris Poulsen, who is on the EMS Committee, about the topic of Foley catheters. Dr. McKimmy felt that he and Dr. Poulsen generally agree that the number of occasions where a catheter would be indicated in an EMS situation is relatively few.

Mr. Kelly feels that placing a urinary catheter is probably the most underutilized skill in the Scope of Practice for paramedics. He also stated there is a rare chance where there would be a need for a catheter in the field. Mr. Kelly indicated a catheter would be more useful in a long distance, inter-facility transport. He believes there is a need for this in the Scope and is willing to look at recommendations for language from the Board. Dr. McKimmy stated he is in full support of creating rule language that allows a paramedic to place a Foley catheter and would like to see some clean language in regards to when the decision to place a catheter might be made. Dr. McKimmy would like to see the language state the paramedic can only place a catheter after having communication with his or her supervising physician; however, the problem may arise in a rural area where communication with a supervising physician is not possible.

Dr. Gubler introduced himself and stated as a trauma surgeon for the last 30 years, he can only recall one patient that needed a Foley catheter before the patient presented to him. That particular patient had traveled many hours from a ship in the Pacific. Dr. Gubler finds it hard to imagine a time where a Foley catheter could not be done in a more appropriate, sterile environment, specifically in regards to trauma patients. Mr. Kelly stated coming up with a list of when to utilize a catheter may be difficult, but he would like to entertain opinions and suggestions from the Board.

Dr. Mastrangelo expressed he is vehemently against allowing paramedics to place catheters and believes it is a bad idea. He stated for a patient that is being transferred from one facility to another, the staff at the discharging facility should place the catheter before the patient leaves. If there is a need for the catheter during the transport, the patient should be brought to an ER or a place where staff is familiar with placing Foley catheters. Dr. Mastrangelo believes catheterization is a skill that will be performed infrequently by paramedics and it is going to be a hard skill to maintain. He also believes another issue is that Foley catheters can cause issues, such as urinary tract infections and urosepsis, and that catheters placed in patients in the field may be at higher risk for introducing bacteria and other pathogens. Dr. Mastrangelo stated patients with pelvic fractures also require a digital rectal exam prior to the placement of a catheter. Dr. Mastrangelo reiterated that this is absolutely in no way disrespectful to paramedics, but his concerns lie with the infrequency of this procedure being performed and it poses a very high risk for morbidity in high risk patients. Mr. Kelly stated he is in complete agreement with the statements made by Dr. Mastrangelo.

Dr. Williamson expressed his support for removing language that allows paramedics to place a Foley catheter for a variety of reasons including urinary tract infections and the risk of morbidity.

Dr. McKimmy addressed his fellow Board members and stated the condition in which a Foley catheter is placed has little to do with the risk of urosepsis and the root of infections has more to do with the length of time the catheter is left in; however, the conditions under which a catheter will be placed should be weighed considerably should this language move forward. Dr. McKimmy also stated that he strongly disagrees that an ER is an appropriate place for a catheter to be placed, that in fact, in no disrespect to nursing personnel, the hospitals do a poor job of training nurses to place catheters. Dr. McKimmy agrees with Dr. Gubler in that in a trauma situation, only a physician should be placing catheters; however, he believes there is still room to consider this rule. The EMS Advisory Committee will revisit this issue at the June meeting.

Mr. Kelly reported that counseling patients in regards to medication adherence was also discussed at the Committee meeting. Paramedics are doing medication adherence and reconciliation. Many physicians now are relying on the pharmacist to provide medication counseling and reconciling what medications a patient is taking.

The Committee also reviewed a request for clarification from the Oregon Health Authority (OHA) in regards to an EMS medical director with an active Oregon license who resides out of state. The Committee agreed that since the position practices in Oregon, that position does meet the Medical Director requirements.

Mr. Kelly stated the scope of practice was reviewed in regards to the utilization and administration of an intra-nasal device. The scope defines every route that a medication is prepared and administered, but this particular one has not been addressed. At the next meeting, it will be proposed that this particular skill be added to the basic scope of practice.

Mr. Kelly affirmed that he will take the urinary catheter discussion back to the EMS Advisory Committee for further discussion and recommendations. Dr. Girard thanked Mr. Kelly for his presentation to the Board and for his willingness to reconsider the urinary catheter issue.

BOARD ACTION: Dr. Williamson moved that the Board approve the February 21, 2014, Emergency Medical Services Advisory Committee meeting minutes as submitted. Dr. McKimmy seconded the motion. The motion carried with a voice vote. Drs. Fisher and White were absent.

Board Meeting Minutes

DG

BOARD ACTION: Dr. Williamson moved that the Board approve the January 9 - 10, 2014, Board meeting minutes as amended. Dr. McKimmy seconded the motion. The motion carried with a voice vote. Drs. Fisher and White were absent.

AMENDMENT: Page 10293:

Attorney General Rosenblum stated that she is unaware of a current Department of Justice position, but will meet with Mr. Foote to discuss ~~this~~ the needs of the Board. She acknowledged that the expertise of medicine rests with the OMB.

Physician Assistant Committee

GK

Dr. Girard congratulated Jennifer Van Atta, PA-C, Physician Assistant Committee Chair, on her recent appointment as Chair. Ms. Van Atta presented the Committee minutes to the Board.

Ms. Van Atta reported the newest Committee member, Ian Hartman, PA-C, was unable to attend; however, Mr. Hartman will be able to attend the next meeting. Ms. Van Atta stated Eric Brown, Chief Investigator, gave the Committee an update on licensees who are currently under investigation in executive session and no action requested or taken by the Committee.

Dr. Koval summarized the physician assistant portion of the January Board meeting for the Committee members. Ms. Van Atta stated the Committee had a brief discussion in regards to a request received by the Committee to have a physician assistant manage an infusion center in a local hospital. Ultimately, the Committee's recommendation is that a physician assistant in a management role in an infusion center is an appropriate use of a physician assistant, as long as the standard requirement of eight hours of on-site supervision per month is met.

Ms. Van Atta stated there were several informational items that the Committee was updated on including supervising physician review, previous PA Committee minutes had been approved by the Board, and the final review of OARs that required no action on the part of the Committee.

Dr. McKimmy acknowledged that Melissa Peng, PA-C, a current Physician Assistant Committee member, is a great asset in her role as a consultant to the Board and to the Investigative Committee. Dr. McKimmy expressed the Board's thanks to Ms. Peng for her assistance. Dr. Koval stated he is honored to participate in the PA Committee and that the Committee is an outstanding group of individuals and feels the newest Committee member, Mr. Hartman, will be a great asset.

Drs. Girard and Williamson thanked Ms. Van Atta for her presentation.

BOARD ACTION: Dr. Koval moved that the Board approve the March 13, 2014, Physician Assistant Committee meeting minutes as written. Dr. Williamson seconded the motion. The motion carried with a voice vote. Drs. Fisher and White were absent.

Public Input	DG
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The Board accepted comments from the public.

Devin Bost, member of the public, presented to the Board. He introduced himself as the President of a software engineering firm and read scripture in regards to false witness. Mr. Bost then asked what policy, if any, the Board has developed to detect and resolve false witness that has not been considered by the Investigative Committee.

Dr. Girard thanked Mr. Bost for the scripture and asked that he repeat his question. Mr. Bost repeated his question and clarified in other words, if a person submits a report, knowing the penalty is perjury, how does the Board determine the person has committed perjury.

Dr. Girard responded to Mr. Bost. He noted that detecting untruthfulness versus fraud is incredibly complex and detailed. In Dr. Girard's opinion, the Board gives every conceivable option or opinion due process in terms of coming to a decision about that issue. While it is time consuming and labor intensive, it is the Board's belief it is part of what the Board needs to do to ensure the public is safe, and that the physicians have the best opportunity to provide their care.

Dr. McKimmy addressed Mr. Bost and stated many times the Board is not able to ascertain definitively the issues of creditability. When this is the case, the Board is inclined to give the Licensee the benefit of the doubt, if it appears there has been false witness or complaints brought forward that are unprofessional. Unprofessional conduct is defined in the Medical Practice Act and the Board has opened complaints against licensees who have brought issues forward for unprofessional reasons. Dr. McKimmy stated many of those issues are protected by the laws of confidentiality, so sometimes it makes transparency difficult.

Mr. Bost thanked the Board for their time.

Susan Haney, MD, introduced herself as an emergency physician at the Roseburg VA. Dr. Haney stated she wished to add to the discussion of urinary catheters and she believes there is an issue of delaying the transport of a patient due to another procedure done in the field. Dr. Haney also is in agreement with the Board on the catheter discussion.

Dr. Haney feels she was not given due process when she was under investigation. She asked for an opportunity to speak to the Board both times she was under investigation and was denied the opportunity. Dr. Haney stated she was found innocent of any wrong doing, practicing while impaired and misconduct, but the accusations that keep a physician out of work do an unrepeatable harm to one's career. She expressed that it would be nice to be judged by a group of one's peers, rather than an Investigative Committee that may or may not have experience evaluating a physician's health issues. The job the Board does in protecting the public is a tough job, but protecting the ability of competent and caring physicians to be able to continue to

practice is just as important. The Board should encourage physicians to maintain their health, mental and physical.

Dr. Girard thanked Dr. Haney for her comments and stated the Board sympathizes with what she has been through and is happy that things are going well for her. From Dr. Girard's experience, the Board is a peer review group. Investigative information that comes forward is not the end of anything, it is part of the whole group of information that is discussed, negotiated and brought forward. While the investigative information is important, it is not the decision maker.

Dr. Haney expressed she has seen some improvement the last several years and appreciates the effort the Board has made to improve the overall medical oversight of practice concerns in regards to a physician's health. There is always room for improvement and Dr. Haney encouraged the Board to continue to move in that direction.

Dr. Girard expressed his thanks to Mr. Bost and Dr. Haney for their comments and for being at the meeting. Dr. McKimmy stated in regards to Mr. Bost's comments, the Board would be reviewing civil penalty authority for the Board to fine practitioners who are guilty of fraud or misrepresentation. Dr. Koval stated the Board would be reviewing HPSP matters that speak to some of Dr. Haney's concerns later in the meeting.

EXECUTIVE SESSION

PEDRI, Mark S., DO	ID# 1024872	Application	CM
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Dr. Mah reviewed the case.

BOARD ACTION: Dr. Mah moved that in the matter of Mark S. Pedri, DO, the Board approve the Applicant's request to withdraw his application for licensure. Dr. Sukumar seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

SANKEY, Katherine L., MD	ID# 1023080	Application	GK
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Dr. Koval reviewed the case.

BOARD ACTION: Dr. Koval moved that in the matter of Katherine L. Sankey, MD, the Board grant the Applicant a full license. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

STEFFENS, Randall L., DO	ID# 1024953	Application	DG
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Dr. Girard reviewed the case.

BOARD ACTION: Dr. Mastrangelo moved that in the matter of Randall L. Steffens, DO, the Board grant the Applicant a full license. Dr. McKimmy seconded the motion. The motion passed 10-0-0-0-2. Drs. Fisher and White were absent.

VERGARA, Nicolas, MD	ID# 1019879	Application	TS
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Ms. Smith reviewed the case.

BOARD ACTION: Ms. Smith moved that in the matter of Nicolas Vergara, MD, the Board grant the Applicant a full license. Dr. Williamson seconded the motion. The motion passed 10-0-0-2. Drs. Fisher and White were absent.

EXECUTIVE SESSION

Investigative Committee Meeting Minutes & Consent Agenda		DG
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Dr. Girard reviewed the meeting minutes and consent agendas.

BOARD ACTION: Dr. Williamson moved that the Board approve the February 6, 2014, Investigative Committee meeting minutes and the February 6, 2014, Full Board conference call meeting minutes as written. Dr. McKimmy seconded the motion. The motion carried with a voice vote. Drs. Fisher and White were absent.

BOARD ACTION: Dr. Koval moved that the Board approve the February 6, 2014 Investigative Committee consent agenda and the March 6, 2014, Investigative Committee consent agenda. Ms. Smith seconded the motion. The motion carried with a voice vote. Dr. Williamson recused on case #13-0330 and Mr. Turner recused on case #13-0220 and case #13-0274. Drs. Fisher and White were absent.

PUBLIC SESSION

Dr. Girard asked members of the public to introduce themselves. Jim Conway, from California, introduced himself as a professional who has worked in the field of chemical dependency since 1971. He runs a privately funded chemical dependency program called Pacific Assistance Group. Mr. Conway stated he has recently relocated to Oregon and hopes to be involved in anything that comes out of the new legislation.

Bruce Bishop, JD, introduced himself as Senior Counsel for Northwest Permanente and stated his interest in office based surgery rules.

Update on Health Professionals' Services Program		DG
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Dr. Girard introduced Joseph Bloom, MD, who is a forensic psychiatrist. Dr. Bloom has had a long term interest and commitment to physician wellness. During the transition from HPP to HPSP, Dr. Bloom was the Interim Director of HPP and helped members transition from HPP to HPSP. Dr. Girard stated the Board is very grateful for Dr. Bloom's efforts.

Dr. Joseph Bloom presented to the Board. Dr. Bloom stated he has been a consultant to the Board since 1983. Dr. Bloom gave a brief history of the health professionals' programs in Oregon. In 1973, the American Medical Association (AMA) published *The Sick Physician*, an article that called attention to psychiatric and substance abuse problems among physicians and pointed out the fact that organized medicine and medical boards were negligent in dealing with these problems.

In the mid to late 1980s, the Oregon Medical Association (OMA) began an in-house program for physicians with substance abuse problems. In 1989, legislation created the Health Professionals Program (HPP), which was run by the Board of Medical Examiners. Initially the program focused on physicians with substance abuse and dependence, but in 2007, physicians with psychiatric disorders were added to the responsibility of HPP.

Dr. Bloom stated in the 2009 legislature, it was decided to create a single entity for health professional boards who wished to participate in monitoring. The Oregon Health Authority (OHA) was designated by legislation as the governmental agency that would be responsible for the development of the program and OHA contracted with Reliant Behavioral Health (RBH) to run the program.

Dr. Bloom said the OMA and the Oregon Psychiatric Association (OPA) has problems with HPSP. First, the program staff has no face-to-face contact with any licensees and the medical director is part-time with a caseload of 400 people. Secondly, there is a lack of discretion on the part of the medical director and other staff members. The primary job, according to legislation, is monitoring and their vision of what monitoring is, is very limited. The program is expensive, there are only a small number of self-referrals, and there also have been recent important staff changes.

In the 2013 legislature, the first change eliminated language that would allow the program to assess and evaluate compliance with diversion agreements by enrolled licensees. To clarify substantial non-compliance, language was added and additional language was added to allow a board to contract with or designate one or more programs to deliver therapeutic services.

Dr. Bloom stated there are current issues facing the Board. He expressed that the OMA and OPA expect that with the new legislation, a program will be developed that will revive principles that are in successful physician health programs. Speaking as the Board's consultant, Dr. Bloom stated the Board faces one of three choices: do something, do nothing, or wait.

Dr. Bloom believes the first option the Board could take an active leadership role by developing a process that would be suitable for the Board to contract with or designate as a therapeutic program initially for voluntary clients. The second approach the Board could take could be a passive one where the Board waits for a program to request a contact or designation to treat voluntary applicants and later mandated licensees. Lastly, the Board could wait until the contract between OHA and RBH is up and then develop a better program with RBH.

Dr. Girard thanked Dr. Bloom for his presentation. Dr. Koval asked Dr. Bloom whether he believes the changes in recent legislation, particularly which assess and evaluates non-compliance and diversion, will impede RBH or another agency from providing enhanced service. Dr. Bloom believes it will be very difficult because of the strict requirements.

Dr. Girard expressed it was in his opinion, that this is an opportunity for the Board to move forward and the Board appreciates Dr. Bloom for sharing his thoughts and ideas.

Dr. Haney interjected and stated in regards to the language in the 2013 Bill that talked about contracting with the treatment programs, the OMA did not support that language and expressed their concerns directly to the Board about contracting with treatment programs and possibly introducing an inappropriate element of conflict of interest.

Dr. Girard thanked Dr. Haney for her comment and stated it was his understanding that the language was part of a threesome effort that included the OPA, OMB and the OMA. Dr. Mastrangelo thanked Dr. Haney for her comment, but reminded her that the public comments are restricted to the public comment section.

Dr. Bloom replied the final bill was supported by the OMA and there may have been parts in the beginning the OMA did not support, but the OMA was quite instrumental in getting the bill passed.

Dr. Girard expressed his appreciation to Dr. Bloom.

Civil Penalty Amount for Fraud or Misrepresentation		<i>TS</i>
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Terry Smith presented the staff recommendation on civil penalty amounts for fraud or misrepresentation to the Board.

BOARD ACTION: Ms. Smith moved that the Board approve the staff recommendation as outlined in Ms. Fisher's memo in regards to civil penalty amounts for fraud or misrepresentation. Dr. Williamson seconded the motion. The motion carried with a voice vote. Drs. Fisher and White were absent.

Inquiry Regarding Application of OAR 847-017-0005(17)		<i>GK</i>
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Dr. Koval stated at the March Administrative Affairs Committee (AAC) meeting, there was a discussion regarding an inquiry letter from the general counsel of Northwest Permanente. The letter describes a setting in which pain management physicians' practice, which is office-based, at Kaiser Permanente Interstate. At the site, pain management procedures performed include epidural steroid injections, peripheral nerve blocks, and spinal cord simulator trials. The letter communicated that half of the procedures performed are being performed under local anesthetic injection, and some patients may receive conscious or light sedation, while this has been defined as moderate sedation in the office-based surgery, Division 17 rule.

In the letter, the attorney stated that having to accredit the office at Kaiser Interstate, just for these pain therapies, is tremendously burdensome, disruptive, and is unclear if it can ever be done. The intention of Division 17 was to ensure the safety of the very broad range of invasive procedures, which may be performed in an office, which may be associated with complications. Dr. Koval stated the language in the rule went through a number of hearings, which was discussed and covers a very broad range of procedures. The classification of complexity of surgical services was divided into three levels based largely on the type of anesthesia provided during the procedure.

Dr. Williamson stated when the Board started to draft the first round of language for the Division 17 rules, and speaking with leaders of other medical boards around the country and the

Federation of State Medical Boards (FSMB), one comment that was made is that it was a little easier to try and scale the level of procedure the Board wished to address in the rules by considering the amount of anesthetic or sedation that may be necessary to allow the procedure to be done safely. It has become more common to see other states use this level designation.

Dr. Girard asked Mr. Bruce Bishop, Senior Counsel for Northwest Permanente, if the information provided was helpful. Mr. Bishop addressed the Board and stated the Board has adopted a rule that regulates office-based surgery and the rule is very specific on when accreditation is required and what standards practitioners must follow in order to meet the standards. The question that has arisen is regarding pain. Mr. Bishop stated the Board's rule is not clear as to the impacts of the Board's regulation with regard to pain.

Dr. Girard thanked Mr. Bishop for his comments and stated the Board wants to help, but Mr. Bishop needs to be clear on what he needs. Mr. Bishop stated the comments and explanation from Dr. Koval was not helpful and that he needs a clear articulation in the Board's rules of what the standard of practice is. Dr. Girard responded that the Board is happy to take this on; however the Board is unable to do this at the moment, but this issue will put this forward to be addressed.

Dr. Koval stated this would require more input from those practitioners that are providing these services and if those practitioners could provide specific information, it would be beneficial. The non-provision of moderate sedation for a procedure would allow it to be performed in a level one office. If intravenous sedation is going to be given, or analgesia, to allow the tolerance of a therapeutic procedure, that would move the procedure to a different level.

Dr. Girard stated a huge amount of work has been done to put all of this together, recognizing that there will be loopholes. The Board is happy to address any loopholes so that everyone is on the same page in terms of how the Board implements the rules.

Mr. Bishop stated he does not believe this is only a Northwest Permanente issue, but is a broader issue about the applicability of the Board's rules in pain management. He believes that pain was never addressed or brought up during the office-based surgery discussions.

Dr. Mastrangelo thanked Mr. Bishop for his comments and thanked Gwen Dayton of the Oregon Medical Association (OMA) for attending the meeting and for providing input. Dr. Mastrangelo agrees that adding some language to make this more appropriate for pain and sedation in the office is needed. He also added that it is very easy to cross over from light/moderate sedation to deep sedation with the medications that are available. For the safety of the patient, the facility should be able to resuscitate the patient if the patient is over-sedated or has a reaction to the sedation.

Dr. Williamson proposed that the Board take these issues back to the AAC.

Molly Burns Hermann, JD, general counsel for Northwest Permanente, addressed the Board. Ms. Burns Hermann stated the rule governs surgery requiring anesthesia. They do not want to diminish access or make it more difficult for the patient to have these procedures, but right now,

the way that the rules are written a physician may possibly be completing procedures that need to be completed in an accredited facility.

Dr. Girard thanked Ms. Hermann for her comments and stated it was not the Board's intention to write any rules that are unclear, and the Board is here to protect the public and help protect physicians in carrying out their roles, the Board will address these issues.

Gwen Dayton, of the Oregon Medical Association, thanked the Board for reading her letter and stated she did not have any extensive comments. She stated the OMA's primary concern on this issue that is being discussed is that there is clarity and that making sure these rules are addressing challenges in patient safety issues associated with surgery. The OMA's concern is that it appears that the interpretation is starting to move toward the independent administration of anesthesia or sedation that is not to support a procedure, but as an independent practice. Ms. Dayton expressed that the OMA is supportive of the Board taking these issues back to the AAC for review.

The Board members thanked Ms. Dayton for her comments.

Results of the Board Best Practices		<i>GK</i>
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Dr. Koval presented a memo from Carol Brandt, Business Management, on the outcome of the Best Practices Survey.

The Board took no action.

Secretary of State Audit		<i>DG</i>
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Dr. Girard presented the Secretary of State Audit on health professional regulatory boards.

The Board took no action.

Legislative Session Update		<i>CM</i>
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Scott Gallant, Board Lobbyist, presented an update on the legislative session to the Board.

Dr. Williamson left the meeting at 12:06 p.m.

OAR 847-001-0045, 847-008-0003, 847-020-0183, 847-050-0043, 847-070-0045, and 847-080-0021: Approval of Consent Agreements for Re-entry	<i>FINAL REVIEW</i>	<i>GK</i>
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Dr. Koval reviewed the rule.

BOARD ACTION: Dr. Koval moved that the Board adopt OAR 847-001-0045, 847-008-0003, 847-020-0183, 847-050-0043, 847-070-0045, and 847-080-0021 as written. Dr. McKimmy seconded the motion. The motion carried with a voice vote. Drs. Fisher, White and Williamson were absent.

OAR 847-005-0005: Fees	<i>FINAL REVIEW</i>	<i>TS</i>
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Ms. Smith reviewed the rule.

BOARD ACTION: Ms. Smith moved that the Board adopt OAR 847-005-0005 as written. Mr. Turner seconded the motion. The motion carried with a voice vote. Drs. Fisher, White and Williamson were absent.

OMB Report Progress Summary		<i>TS</i>
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Carol Brandt, Business Manager, presented the OMB Report Progress Summary.

Accomplishments from 2013		<i>TS</i>
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Ms. Smith presented the Oregon Medical Board's accomplishments from 2013.

Supervising Physician Review Update		<i>GK</i>
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Dr. Koval updated the Board on the Supervising Physician Review.

Board Chair Report		<i>DG</i>
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Dr. Girard, Board Chair, updated the Board on his duties as Board Chair.

Interim Stipulated Order Acknowledgment		<i>DG</i>
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The Board acknowledged the Interim Stipulated Order signed by Kevin R. Johnson, MD, effective March 5, 2014.

Administrative Affairs Committee (AAC) Meeting Minutes		<i>GK</i>
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Dr. Koval reviewed the March 12, 2014 AAC meeting minutes.

BOARD ACTION: Dr. Koval moved that the Board approve the March 12, 2014, AAC meeting minutes. Dr. McKimmy seconded the motion. The motion carried with a voice vote. Drs. Fisher, White and Williamson were absent.

Dr. Girard announced that the Board had just been contacted by the Governor's Office with notification that Keith White, MD, has resigned as a Board member.

ADJOURN

2014 BOARD AND COMMITTEES

Board Members

	<i>Term expires</i>
Donald Girard, MD, Portland; Chair	Feb. 28, 2016*
Michael Mastrangelo Jr., MD, Bend; Vice Chair	Feb. 28, 2014
George Koval, MD, Lake Oswego; Secretary	Feb. 28, 2016*
Katherine Fisher, DO, Happy Valley	Feb. 28, 2016
Clifford Mah, DPM, Portland	Feb. 28, 2015
Roger McKimmy, MD, Eugene	Feb. 28, 2016*
Terry Smith, Springfield, Public Member	Feb. 28, 2016
Shirin Sukumar, MD, West Linn	Feb. 28, 2014
Angelo Turner, Portland, Public Member	Feb. 28, 2015
Keith White, MD, Salem	Feb. 28, 2015*
W. Kent Williamson, MD, Portland	Feb. 28, 2016*
Ralph Yates, DO, Gresham	Feb. 28, 2014*

**Ineligible for reappointment (term limit in effect)*

Investigative Committee (IC)

Dr. Mastrangelo, Chair
Dr. Girard
Mr. Turner
Dr. Sukumar
Dr. McKimmy/Dr. Williamson

Administrative

Affairs Committee (AAC)

Dr. Koval, Chair
Dr. Mah
Ms. Smith
Dr. Girard
Dr. Fisher

Legislative Advisory Committee

Dr. Williamson, Chair
Mr. Turner

Editorial Committee

Dr. Girard
Ms. Smith

Emergency Medical Services (EMS)

Advisory Committee

Doug Kelly, Paramedic, Bend - Chair
Wayne Endersby, EMT-Intermediate,
Richland
Susan Katz, Portland, Public Member
Kara Kohfield, Paramedic, John Day
Christoffer Poulsen, DO, Eugene
Terri Schmidt, MD, Portland

Physician Assistant (PA) Committee

Jennifer Van Atta, PA-C, Portland- Chair
Bruce Carlson, MD, Hermiston
Ian Hartman, PA-C, Portland
Melissa Peng, PA-C, Portland
Dr. Koval, Board Member

Acupuncture Advisory Committee

Ellen Shefi, LAc, LMT; Portland - Chair
Brynn Graham, LAc; Portland
Lena Kuo, MD, Portland
Charlotte Lin, MD, Bend
Siamak Shirazi, LAc, Lake Oswego
Ms. Smith, Board Member Liaison