

BOARD OF REGISTRATION IN MEDICINE

**178 Albion Street, Suite 330
Wakefield, Massachusetts 01880**

(Teleconference)

June 29, 2023

10:33 a.m.

Public Session I

Members Participating Remotely:

Julian N. Robinson, M.D., Physician Member, Chair
Holly Oh, M.D., Physician Member, Secretary
Nawal Nour, M.D., M.P.H., Physician Member
Booker T. Bush, M.D., Physician Member
Sandeep Singh Jubbal, M.D., Physician Member

Member(s) absent:

Frank O'Donnell, Esq., Public Member
John McGahan, Public Member

Staff Present and Participating:

George Zachos, Executive Director
Vita P. Berg, General Counsel
Michael Sinacola, Director of Licensing
Steven Hoffman, Division of Law and Policy Manager
Samuel Leadholm, Assistant General Counsel

Minutes taken by: Donald LaPointe, Paralegal, Division of Law and Policy.

Marsha Johnson, Stenographer, present to record the Board meeting.

Dr. Robinson called the meeting to order at 10:32 a.m.

Dr. Robinson called the Roll to confirm that there was a quorum of the Board.

Dr. Oh - Aye

Dr. Nour - Aye

Dr. Bush – Aye

Dr. Jubbal - Aye

The Chair voted Aye.

Motion carried 5-0 (unanimous).

Dr. Robinson informed those individuals in attendance that the Board meeting was being conducted via teleconference. Additionally, the Board meeting was being recorded by a stenographer.

Audit results relating to Board Policy 2020-06, Substantial Equivalency:

Vita P. Berg, General Counsel, provided an overview of Board Policy 2020-06 and the Board's history regarding the consideration of Requests for Substantial Equivalency, including older policies 91-01, 91-03 and changes to Board's regulations at 243 CMR 2.03(1)(e) (full) and 243 CMR 2.03(2)(e) (limited) in August 2019. Ms. Berg then discussed the results of an audit of substantial equivalency waiver requests considered over the past 10 years that was conducted by Board staff.

Board staff reviewed the complaint and mandated reporting history of the 198 applicants whose requests for waiver were approved and found only 8, roughly 4%, have any history of complaints or mandated reports. In addition, Board staff reviewed the qualifications of 83 applicants whose request for a substantial equivalency waiver was considered following the August 9, 2019 effective date of the revised regulations, to determine if these applicants would have met new regulatory substantial equivalency waiver criteria. The 83 applicants consisted of 61 full license applicants and 22 limited license applicants. Approximately half of the full applicants, but only about 1 in 7 of the limited license applicants would meet the new criteria. On the whole, the new criteria would bar 50 of 83 applicants (60%).

Ms. Berg then presented the Board members with the following three possible options on how to proceed with the Policy:

1. Take no action, allow Policy 2020-06 to expire and the new regulatory criteria to take effect; or
2. Extend Policy 2020-06 to a further future date; or
3. Rescind Policy 2020-06 and amend Policy 91-01 to clarify that the Board will continue to apply this policy notwithstanding 243 CMR 2.03(1)(e), pending further revision to the regulation and similarly amend Policy 91-03 to clarify that the Board will continue to apply this policy notwithstanding 243 CMR 2.03(2)(e).

Responsive to the Board members inquiry, Ms. Berg noted that the update to the Board's regulations in 2019 may have been intended to codify 91-01 and 91-03 and set objective criteria to simplify the review of requests, and that the drastic reduction in eligibility for the waiver may be an unintended consequence.

Dr. Oh moved to rescind Board Policy 2020-06 and amend Board policies 91-01 and 91-03 in accordance with the third outlined option.

Dr. Nour seconded the motion.

Dr. Robinson called the Roll:

Dr. Oh - Aye

Dr. Nour - Aye

Dr. Bush – Aye
Dr. Jubbal - Aye

The Chair voted to Oppose.
Motions carried 5-0 (unanimous).

Board Policy 2022-01: Interim Policy on Practice by Limited Licensees During Public Health Emergency:

Ms. Berg informed the Board members that Board’s regulations at 243 CMR 2.02(8)(a) prohibit any type of moonlighting insofar as it permits limited licensees to “practice medicine only in the specified training program.” However, Board Policy 2022-01, adopted during the pandemic, carved an exception that allows a limited licensee may engage in patient care outside of their Residency program provided that they do under the supervision of a faculty member associated with the Residency program, within the same facility as the Residency program and are doing so within the same specialty as the Residency program.

Ms. Berg then that ACGME Guidelines regarding moonlighting by limited licensees disallows moonlighting in their PGY1 year and then sets parameters for those limited licensees who are past their PGY1 year. Ms. Berg recommended that if the Board were to make Policy 2022-01 permanent, it should add the requirement that moonlighting under that policy must conform to ACGME guidelines.

Mr. Zachos informed the Board members that BORIM staff has received only positive feedback from the healthcare community since the implementation of Board Policy 2022-01 and that such feedback could be provided to the Board members at a future Board meeting.

Dr. Bush moved to amend Board Policy 2022-01 to make it permanent with the proviso that said Policy includes criteria that the limited licensee (Resident) must also comply with the ACGME Guidelines.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Dr. Oh - Aye
Dr. Nour - Aye
Dr. Bush – Aye
Dr. Jubbal - Aye

The Chair voted Aye.
Motions carried 5-0 (unanimous).

Proposed Policy 2023-02: Procedure for Applicants Seeking Board Sponsorship for a Fifth Attempt at a USMLE Step:

Ms. Berg informed the Board members that on July 1, 2021, the United States Medical Licensing Examination (USMLE) reduced the number of total attempts allowed (four attempts) to an examinee taking Step 1, Step 2 CK or Step 3. An examinee may make a fifth attempt if a state medical Board wishes to sponsor said examinee.

In response to requests for sponsorship already received, BORIM staff have prepared a proposed policy which sets a procedure and request form intended to elicit responses from which to assess both whether unique and specific circumstances exist as well as whether there may be any known barriers to licensure. The recommendation was that BORIM sponsorship should be limited to candidates who appear to be otherwise qualified for Massachusetts licensure should the candidate take and pass the USMLE step on the 5th attempt.

Dr. Bush inquired if Board staff had collected information on how other states were approaching these requests. The Board decided to defer any decision on the Proposed Policy pending receipt of this information.

Interim Policy on Emergency Temporary Licenses for Full License Applicants:

Ms. Berg presented a proposal to extend the Interim Policy on Emergency Temporary Licenses for Full License Applicants if they meet the core criteria for licensure.

Ms. Berg recommended that the Board extend this Interim Policy until September 30, 2023, to allow time for outreach to and gathering feedback from healthcare facilities and stakeholders that may be reliant upon the Interim Policy about transitioning the policy towards the provisional licensure issuance model in place for limited licensees under Policy 2021-03.

Dr. Bush moved to extend the Interim Policy on Emergency Temporary Licenses for Full License Applicants until September 30, 2023.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Dr. Oh - Ae

Dr. Nour - Aye

Dr. Bush – Aye

Dr. Jubbal - Aye

The Chair voted Aye.

Motions carried 5-0 (unanimous).

Review of a Risk Management CME Course (KORSI):

Steven Hoffman, Manager, Division of Law and Policy, presented the proposed Risk Management Course, for the Board's possible approval. Mr. Hoffman opined on inequalities in the healthcare industry leading to adverse outcomes, and the merits of the proposed CME course.

Dr. Bush moved to approve the KORSI Risk Management CME Course.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Dr. Oh - Ae

Dr. Nour - Aye

Dr. Bush – Aye

Dr. Jubbal - Aye

The Chair voted Aye.

Motions carried 5-0 (unanimous).

Low, Dominique

The Board considered the Request for Waiver of the Seven-Year Rule.

Dr. Low was present, via teleconference, during the Board's consideration of this matter.

Samuel Leadholm, Assistant General Counsel, noted that this matter was bifurcated and that the Board needed to consider both the request for waiver of the 7 year rule during public session, as well as the full license application during executive session. Mr. Leadholm provided an overview of the issues involved in the 7 year rule waiver request.

Dr. Oh provided the Board members with further details of the Licensing Committee's consideration of this matter. The Board then deferred action pending its discussion in executive session.

Licensing:

Michael Sinacola, Director of Licensing, provided the Board members with an overview of the licensing data as of June 29, 2023.

Dr. Robinson is recused from license applications from Newton Wellesley Hospital, Dr. Oh is recused from applications involving The Dimock Center and Cityblock Health, Dr. Nour is recused from Brigham and Women's Hospital and Dana Farber, Dr. Bush is recused from applications involving Baystate Medical Center Springfield and Dr. Jubbal is recused from applications involving UMass Memorial Medical Center.

Licensing Applications:

Dr. Robinson asked for a motion to approve the applications for licensure that included licenses approved by the Executive Director (see attached at TAB A), Changes to Existing Limited Licenses (see attached at TAB B) and licenses approved by the Licensing Committee (see attached at TAB C).

Dr. Oh moved to approve the above-listed applications for licensure.

Dr. Bush seconded the motion.

Dr. Robinson called the Roll:

Dr. Oh - Aye

Dr. Nour - Aye

Dr. Bush – Aye

Dr. Jubbal - Aye

The Chair voted Aye.

Motions carried 5-0 (unanimous).

Minutes:

The Board considered the Public Session Minutes of the June 15, 2023 Board meeting.

Dr. Bush moved to approve the Public Session Minutes of the June 15, 2023 Board meeting.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Dr. Oh - Aye

Dr. Nour - Aye

Dr. Bush – Aye

Dr. Jubbal - Aye

The Chair voted Aye.

Motions carried 5-0 (unanimous).

Dr. Robinson stated that the Board will meet in Executive Session as authorized by Mass. General Law, chapter 30A, section 21 for purposes set at subsections (a)(1) and (a)(7). Specifically, the Board will review license applications and will discuss the reputation, character, physical condition or mental health, rather than professional competence, of applicants, or the discipline or dismissal of, or complaints or charges against applicants, as permitted under purpose 1 and information that may not be publicly disclosed pursuant to Mass. General Law,

chapter 112, section 5 and Mass. General Law, chapter 66A, section 2, as permitted under purpose 7. The Board will also be reviewing Executive Session Minutes.

Following the Executive Session, the Board will meet in closed Adjudicatory Session, and then in closed Mass. General Law, chapter 112, section 65C session. The Board will reconvene in Public Session following the conclusion of the 65C Session.

Dr. Robinson asked for a motion to go into Executive Session.

Dr. Bush moved to go into Executive Session.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Dr. Oh - Aye

Dr. Nour - Aye

Dr. Bush – Aye

Dr. Jubbal - Aye

The Chair voted Aye.

Motions carried 5-0 (unanimous).

Dr. Robinson stated that the Board would go into Executive Session.

Public Session I ended at 11:07 a.m.

BOARD OF REGISTRATION IN MEDICINE
178 Albion Street, Suite 330
Wakefield, Massachusetts 01880
(Teleconference)
June 29, 2023
12:41 p.m.
Public Session II

Members Participating Remotely:

Julian N. Robinson, M.D., Physician Member, Chair
Holly Oh, M.D., Physician Member, Secretary
Nawal Nour, M.D., M.P.H., Physician Member
Booker T. Bush, M.D., Physician Member
Sandeep Singh Jubbal, M.D., Physician Member

Member(s) absent:

Frank O'Donnell, Esq., Public Member
John McGahan, Public Member

Staff Present and Participating:

George Zachos, Executive Director
Vita P. Berg, General Counsel
Steven Hoffman, Division of Law and Policy Manager

Minutes taken by: Donald LaPointe, Paralegal, Division of Law and Policy.

Marsha Johnson, Stenographer, present to record the Board meeting.

Motion and Vote

In the **Mortele** matter, Dr. Bush moved to terminate the Voluntary Agreement Not to Practice. Dr. Bush further moved to accept the Resignation of Dr. Mortele's inchoate right to renew his license to practice medicine, pursuant to 243 CMR 1.05(5)(a).

Dr. Oh seconded the motions.

Dr. Robinson called the Roll:

Dr. Oh -Aye

Dr. Nour - Aye

Dr. Bush – Aye

Dr. Jubbal - Aye

The Chair voted Aye.

Motion carried 5-0 (unanimous).

Dr. Robinson asked for a motion to adjourn the Board meeting.

Dr. Oh moved to adjourn the meeting.

Dr. Bush seconded the motion.

Dr. Robinson called the Roll:

Dr. Oh -Aye

Dr. Nour - Aye

Dr. Bush – Aye

Dr. Jubbal - Aye

The Chair voted Aye.

Motion carried 5-0 (unanimous).

The Board meeting adjourned at 12:42 p.m.

The Board adjourned earlier than anticipated because a fire alarm was activated at BORIM's Wakefield, Massachusetts office location and BORIM staff present at this location had to evacuate.

Documents Considered in Public Sessions I and II:

- Memorandum RE: Audit results relating to Board Policy 2020-06, Substantial Equivalency
- Memorandum RE: Board Policy 2022-01: Interim Policy on Practice by Limited Licensees During Public Health Emergency
- Memorandum RE: Proposed Policy 2023-02: Procedure for Applicants Seeking Board Sponsorship for a Fifth Attempt at a USMLE Step
- Interim Policy on Emergency Temporary Licenses for Full License Applicants
- Memorandum RE: Review of a Risk Management CME Course (KORSI)
- Memorandum RE: Dominique Low, M.D. – Request for Waiver of the Seven-Year Rule
- Public Session Minutes of the June 15, 2023 Board meetings
- Motion and Vote
- Licensing Applications Lists (see attached at TABs A-C)