Report to
The Vermont Legislature

Review of Board of Medical Practice Policies and Procedures for Investigating Unprofessional Conduct Cases

In Accordance with Act 130 (2014), Section 5
An Act Relating to the Posting of Medical Unprofessional Conduct Decisions and to Investigators of Alleged Unprofessional Conduct

Submitted to:	**House Committee on Health Care** **Senate Committee on Health and Welfare**
Submitted by:	**Harry Chen, M.D., Commissioner of Health**
Prepared by:	**David Herlihy, Executive Director** **Board of Medical Practice**
Report Date:	**January 15, 2015**

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To the house Committee on Health Care and the Senate Committee on Health and Welfare:

This report is submitted as called for by Act 130 of 2014, which tasked the Board of Medical Practice with reporting on work to review and modify, as appropriate, policies and procedures for investigating unprofessional conduct cases after accepting input from interested stakeholders.

By far, the Board's largest group of licensees is medical doctors, who number over 3,000. Many MDs belong to the Vermont Medical Society, a voluntary professional organization for physicians with approximately 2,000 members. VMS provided the Board input about desired policies and procedures for investigation of unprofessional conduct in late August. The Board discussed the input at monthly meetings in September and October.

In December, the Board provided the Medical Society written procedures that incorporated many of the suggestions submitted in the group's input. In fact, the majority of the suggested provisions reflected existing Board practices. Included in the Board's draft of rules on investigative process were provisions suggested by the Medical Society on:

- Initiation of investigations, both on complaints and on information received by the Board that is not in the form of a complaint from a patient or a patient's representative;
- Notice to licensees upon the opening of an investigation, including a process for identifying when notice to the Respondent may be delayed; and,
- Formalizing the Board's existing practice to prearrange visits to practice locations in advance, with standards and a process for unannounced visits.

The Medical Board and Medical Society then met in December to discuss the initial draft. That meeting was productive and resulted in tentative agreement about changes that would lead to a draft likely to be acceptable to both the Board and the Medical Society's Council. It is anticipated that there will be agreement on a draft by early January, and at that time the draft will be shared with the other notable stakeholder, the Vermont Academy of Physician Assistants. Any input from the PAs then will be considered before the draft document with investigation procedures is incorporated into the Board's overall draft of revised administrative rules. During the formal public process for establishment of administrative rules, the Medical Society, the PA Academy, and any other stakeholder groups or individuals will be able to provide additional input. In the meantime, while the formal process takes place, the Board will be guided by the written procedures reflected in the draft.

Respectfully Submitted,

David K. Herlihy
Executive Director