

**Minutes from the  
Maine Society of Eye Physicians and Surgeons  
Fall Business Meeting – September 20, 2019**

The fall meeting of the Maine Society of Eye Physicians and Surgeons was held at the Harborside Hotel and Marina in Bar Harbor, Maine on Friday, September 20, 2019. This meeting was held in conjunction with the 18<sup>th</sup> Annual Downeast Ophthalmology Symposium which took place September 20-22, 2019 at the Harborside Hotel and Marina.

**Attendees:**

Mark Balles, M.D., Robert Daly, M.D.; Thomas Flynn, M.D., David Frasz, M.D., Gregory Gensheimer, M.D., Maroulla Gleaton, M.D., Michelle Harris, M.D., Howard Hoyt, M.D., Jo Johnson, M.D.; Lynne Kaplinsky, M.D., Kurt Kelley, M.D., Peter Kohler, M.D., Erin Lichtenstein, M.D., Lyndon Morgan, M.D., Lawrence Piazza, M.D., James Putnam, M.D., Robert Rice, M.D., Linda Schumacher-Feero, M.D., Samuel P. Solish, M.D., Jordan Sterrer, M.D., Jeremy Valentine, M.D.; Jessica Watson, M.D., Andrew MacLean, JD, and Shirley Goggin, Executive Director.

**Meeting Called to Order:** Dr. Kelley called the meeting to order at 10:40am and thanked attendees.

**Minutes:** Dr. Kelley asked if there were any amendments, deletions or comments regarding the minutes from the May 10, 2019 meeting. The minutes were approved as presented.

**COMMITTEE REPORTS:**

**Secretary/Treasurer Report – Shirley Goggin, Executive Director**

- Dr. Kelley announced that Ms. Goggin would deliver the Secretary/Treasurer Report as Secretary/Treasurer, Kaitlyn Nolan, MD, was not able to be present as she was home with her newborn baby.
- Ms. Goggin indicated that there was no unusual activity in the accounts since the last report and proceeded to report the balances in each account.

**Membership Report – Kurt Kelley, M.D.**

- **Election of New Members** – Dr. Kelley shared that there were two new applicants for membership including Mostafa Mazen, M.D., from Northern Light Eye Care in Bangor (working with Dr. Klett). Dr. Kelley indicated that the membership application in the binder was not signed as Dr. Mazen was still securing signatures of which Dr. Klett will be one. Dr. Mazen was planning to get signatures at this meeting so as not to have to wait until May to become a member. If membership agrees to vote Dr. Mazen in as member, Ms. Goggin will be sure to get signed copy of membership application to back it up. The other applicant was Catherine Meyerle from Coastal Eye Care (working with Drs. Piazza and Rudloe), who was recommended for membership by Larry Piazza, M.D. and Isaac Rudloe, M.D. Membership voted Drs. Mazen and Meyerle in as the newest members of MSEPS. Dr. Kelley also referenced the membership list and non-member list in the meeting binder.
- **Officer Announcement** – Dr. Kelley announced that Dr. Kaitlyn Nolan, our current Secretary/Treasurer has indicated that for various reasons she does not wish to move into the President-elect position when elections take place at the spring 2020 meeting. She would be happy to continue in the role as Secretary/Treasurer for an undefined amount of time. Based on this, Dr. Kelley reported that at the May 1, 2020 meeting we will be looking to fill the Vice President position, bypassing the Secretary/Treasurer position.

## Legislative & Regulatory Update – Andrew MacLean, JD

- Mr. MacLean began by sharing a brief personal note regarding his vision loss which has progressed to the point that it is a factor in his day to day movements, he doesn't drive much anymore, and it is difficult in low light conditions. He appreciates everyone is understanding as he deals with that.
- Mr. MacLean referenced the MMA 2019 Annual Report of the Committee on Legislation in the meeting binder which gives a short summary of activities from the 1<sup>st</sup> Regular Session of this Legislature. If you want more, the Bill Tracking List is on MMA's website at <https://www.mainemed.com/129th-legislature-bills-interest-medicine> and updated regularly giving information about every bill MMA is tracking. There are no bills specific to ophthalmology thus far in the first session.
- Most bills from the 1<sup>st</sup> Regular Session became effective yesterday, 9/19/19, which is 90 days after the adjournment of the Legislature. One of the high-profile bills from last session, L.D. 798, would limit vaccine exemptions to medical only (eliminating religious and philosophical exemptions), the People's Veto Campaign in that regard seems to have been successful. This law was not to go into effect until 2021 anyway, so it looks like it will be on the ballot in March or June 2020. There were about a half dozen bills with healthcare implications that were subject to People's Vetoes (2 abortion bills, physician-assisted death, etc.). All the other People's Veto Campaigns were unsuccessful.
- The Physician-Assisted Death Law went into effect yesterday, 9/19/19. MMA is working with the Maine Hospital Association to provide some guidance and resources, convened a Working Group that has produced a few documents (fact sheet, checklist for clinicians participating, and a model organizational notice) that may be helpful that will be posted on the MMA website soon.
- A couple carry-over issues – Bills in the 2<sup>nd</sup> Session can come in the following ways:
  1. Bills Carried-Over from 1<sup>st</sup> Session – This is not uncommon. The Legislature will often put off difficult decisions until the 2<sup>nd</sup> Session. In the area of health care reform there are 5 bills that have been carried over in the Insurance Committee. Two would propose single-payer health care reform, two would propose some aspect of a public option, and there is a continuation of a legislative working group or task force on health care reform. The Insurance Committee has been authorized for 4 meetings throughout the fall to discuss these bills (probably one a month through the end of the year) and then they will be in discussion when the legislature begins in January. Another carry-over bill Mr. MacLean mentioned was L.D. 1660, that proposes some changes to the licensing and regulation of physician assistants. There are a variety of stakeholders, including MMA, involved in this discussion, but at this time, the bill is still very much in development.
  2. Bills of a Fiscal or Emergency Nature Only – According to the constitution, in the 2<sup>nd</sup> Session, the Legislature is expected to consider bills of a fiscal or emergency nature only. For all practical purposes, the definition of an emergency means, you can get a majority vote of the ten members of the legislative leadership that comprise the legislative council (the governing organization of the legislature). The next session's bill cloture deadline is September 27, 2019. They will then go through a process of reviewing these bills, they throw some out, and there is an appeals period where legislators can repeal the denial, and by some time in November or early December there will be a list of new bills that have been submitted for consideration in the 2<sup>nd</sup> Session. MMA will review this list, when it becomes available, and let MSEPS know if there are any bills of interest to ophthalmology

at that time. The 2<sup>nd</sup> Session will begin on January 8, 2020 and will conclude sometime in mid-April.

Mr. MacLean shared that Peter Michaud, JD, RN, MMA General Council for MMA will retire on 12/31/19. Peter started at MMA 5 years ago in the late stage of his career and offered to give 5 years which will conclude at the end of the year and then he is going to go hike the Appalachian Trail. Mr. MacLean has someone in mind for the position who has both a government affairs and a communications background as well (not a lawyer) and will be ready to start on 1/1/20.

Mr. MacLean concluded saying that 2020 is an election year so all state legislative seats are up for grabs, a presidential election year, and the big statewide race in Maine is Susan Collins.

Mr. MacLean answered a few clarifying questions regarding Physician-Assisted Death Law that went into effect and recommended members look at the additional documents posted on the MMA website as well.

#### **OTHER BUSINESS:**

- **Advocacy Efforts/Scope of Practice – Kurt Kelley, MD**

Dr. Kelley shared a schedule for a Maine Optometric Association Meeting (Course) held in Augusta September 12-14 that was brought to our attention and of big concern as it was instructing how to do various procedures in the State as it is not within scope of practice at this point. Not sure if this is sort of an auger portending some impending legislation regarding scope of practice. Similar meetings have been done across the country and legislation has followed. All the conversations we have had at this point show that there is nothing immediately on the horizon but is worth being aware of and it ties in nicely to the message of trying to build good relations with your legislators. Ms. Goggin has put together a list in the meeting binder which will also be sent out electronically of who your representatives and senators are. It is easy to reach out to these folks as your schedule permits to just sit down with them and introduce yourself and start building relations to have networks in place for when needed. Mr. MacLean stated that you can simply send an email introducing yourself and stating “I am an ophthalmologist in your district and just wanted to introduce myself and if you ever have any questions about medicine or diseases of the eye, I would be happy to chat with you” or if you see there is a campaign event, you can go and introduce yourself personally. Mr. MacLean shared that he reached out to Bruce Gerrity, senior lawyer at Preti Flaherty, who has represented the Maine Optometric Association for a long time, about a month ago and it was pretty clear that he did not know anything about this. Mr. MacLean shared that he would like to know more about their intentions as we had concerns about it and Bruce said he could represent to him that there was no intention to get anything in for the 2020 session, but too early to predict for the 2021 session. Dr. Lichtenstein shared that she recently attended a political fundraiser and while there, met some other medical professionals including Aaron Tebbs, MD of Lewiston who is President of the Maine Society of Anesthesiologists, and there was discussion of working together as physicians which turns it more into a patient safety issue than a scope of practice and physicians advocating for other physicians. Mr. MacLean said that bringing together the three primary specialties (anesthesiology, psychiatry, and us), MMA would worry about for scope to discuss strategies could be arranged if interested. Dr. Kelley also referenced a couple other handouts in the binder related to the matter. Ms. Goggin also reminded everyone that at any time members can give contributions to the Advocacy Fund or EyePac (forms in binder). When paying membership dues, \$50 automatically goes into each account, but additional contributions are welcome at any time.

- **AAO Surgical Scope Fund Request – Kurt Kelley, MD**

Dr. Kelley indicated receipt of an annual letter from the Academy requesting a contribution to the Surgical Scope Fund. Dr. Kelley made a recommendation to give \$1,500 as we did last year. A motion was made, seconded, and approved to contribute \$1,500 to the AAO Surgical Scope Fund from the Advocacy Fund. Dr. Kelley also encouraged members to contribute personally as well.

▪ **Medical Professionals Health Program (MPHP) Request** – *Kurt Kelley, MD*

This is a program that helps physicians, nurses, dentists, and other health professionals who have substance abuse issues to help them overcome those issues and be able to return to work. They are requesting \$500 and Dr. Kelley made a motion that we give \$500 for this program. A motion was made, seconded and approved to contribute \$500 to the MPHP.

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▪ **Carrier Advisory Committee (CAC) Representation** – *Kurt Kelley, MD*

Dr. Mark Balles volunteered to fill the position vacated by Dr. Edward Jaccoma who was our Carrier Advisory Committee (CAC) Representative until he moved to Connecticut. Dr. Balles indicated that since he is retired, he feels he has the time to devote to this and help the Society. Dr. Kelley asked if there was other interest, and there was not, so he thanked Dr. Balles for stepping forward and agreeing to be the CAC Representative.

▪ **MMA Fee Increases** – *Andrew MacLean, JD*

Mr. MacLean began by saying he became the CEO of the Maine Medical Association on August 1, 2019 and is dealing with all manners of transition issues, including staff transitions, etc. He also shared that he does not assume about how much members know about the Association, so if anyone has any questions during the transition, he would be happy to respond. As an example, he shared that the MPHP (which we just contributed to) is a program of the MMA and consists of 5 employees who work for MMA. He also mentioned that MMA has appreciated the strong relationship with MSEPS through the years, both the payment for services for what Ms. Goggin primarily does for you as well as what he and Mr. Smith have brought in an advocacy role. Mr. MacLean does not think there is any specialty that we do better with membership with than ophthalmology...the vast majority are members, and that is appreciated. As a new CEO, one of the messages he has received through the interview process and from the Board of Directors is that he is to be very attuned to the budget situation and in fact, the proposed budget for 2020 has a deficit of approximately \$80K. We traditionally have run a deficit budget, so Mr. MacLean is not saying that we are in dire straits. The organization is quite strong from a big picture standpoint. As non-profit organizations go, we have an annual operating budget of about \$1.3M and have about \$1M in reserves depending on the market. MMA has several pieces of property in Manchester with essentially no debt, so we are in a strong financial position. One of the directives that is directly on point here, from a strategic planning session about 5 years ago, staff was directed to try to move all specialty society management to 120% of our costs (our costs of provided services and some indirect). We have calculated this to an hourly rate of \$45, which is what we are trying to move towards and will be the contracted rate for any new specialties. With MSEPS, this would mean a proposed increase from \$12,000 to the rate of \$14,500 a year to get us closer to the 120% of cost. Mr. MacLean asked Dr. Solish to feel free to comment on DOS as he was not as clear on the DOS agreement, but on the DOS side, MMA is proposing an increase from \$22,000 to the rate of \$25,000 a year. Dr. Solish stated that his feeling would be that as we

previously discussed, we do have funds in reserve from the DOS program over the years and Ms. Goggin is very careful with our funds and has been instrumental in not only keeping costs down but in inviting display people and everything else and he is fine with this increase. Dr. Gleaton agreed and stated that we cannot do it without her. Dr. Kelley stated this is a fairly big bump but looks like it brings us into parity and questioned how we fit with other societies. Mr. MacLean stated MMA is not under water with MSEPS anywhere near how they are with some other societies and that is appreciated. Mr. MacLean also mentioned that to the best of his knowledge there has always just been a handshake deal with MSEPS that goes back years. Mr. MacLean stated that MMA now has a Template Association Management Agreement that they are trying to get all specialties on. It is a typical boiler plate contract but would have a section in it that would have the scope of work and what we are committing to do for the Society and the contracted cost as approved. Mr. MacLean will work with Dr. Kelley and Shirley on this. Dr. Kelley asked if there were any other questions or concerns with the proposed increases of which there were none. He then made a motion, which was seconded and approved to accept the proposed increases of \$2,500 more a year for MSEPS and \$3,000 more a year for DOS.

▪ **October 26<sup>th</sup> Event – 65 Years of MMA Leadership**

Dr. Kelley shared that over the summer MSEPS was solicited for a donation for this event that needed to be taken care of before this meeting. Based on what other specialty societies were giving and based on our unique relationship with Gordon, leadership felt that a more generous donation was justified and decided to give \$3,000 for the event based on options given. There was discussion among leadership and a few other individuals, and they all felt the amount was appropriate and although it is mute at this point, he hopes there was no objection with the decision. Dr. Kelley stated that Mr. Smith was appreciative. There is a postcard in the meeting binder about the event and how to register. Ms. Goggin also stated that she would like to get a photo of MSEPS members present at DOS with Gordon to put into the MSEPS ad for the event as Gordon loves photos. She asked members to meet outside on patio directly after Gordon's Keynote Address on Saturday for the photo.

▪ **AAO Update/Councilor Update – Linda Schumacher-Feero, MD, Councilor**

Dr. Schumacher-Feero shared that there has not been a Council Meeting since before the spring MSEPS meeting. There was a webinar for Councilors about two months ago. She stated that most of the report in the meeting binder is from the AAO and are the things the Academy has been focusing on since the spring.

- **Access to Part B, prescriptions and compounded drugs** are still an issue and in the last couple weeks she has received lists of items no longer available and is sure everyone else is in the same boat and this is a huge issue. There is a bill that has been introduced in the House that will allow easier access and creation of generic drugs. This is a big concern for the Academy.
- **Delays in care: Step therapy and prior authorization** is an issue especially when talking about anti-VEGF drugs and the policies in place for the Medicare Advantage Plans in various parts of the country requiring loss of 15 letters of visual acuity or three months of failed treatment before you can change therapy. Dr. Schumacher-Feero was very disheartened to read last night in the *Washington Weekly* that when Centers for Medicare and Medicaid head Seema Verma met with the Academy and said that if patients don't like step therapy, they can change which Medicare Advantage Plan they are part of. So, it seems that Medicare is not going to push at all that Medicare Advantage Plans cannot legally do this, so it is back to depending on Congress to force them on the issue and most likely the Academy's next step.

- **2020 Medicare Fee Schedule** – The Academy has been vocal in saying this is the best we could have hoped for, but it is still really disappointing to a lot of ophthalmologists. We will have to see what other cuts they make going forward, but it will continue to be an issue.
  - **Succeeding in MIPS** – Merit-Based Incentive Program (MIPS) is not going away and is going to get harder. There is a 9% penalty going forward and you need 45 points to pass and this is going to increase again next year. The Academy wants to encourage involvement in the IRIS Registry as almost everyone participating in the IRIS Registry has done really well. Nobody who has participated is going to be penalized and most of those people are in the highest tier for the highest bonus potential.
  - **Federal scope of practice** – On a federal level, Optometry focused on veterans' eye care issues and concerns about the VA's Technology-based Eye Care Services (TECS) program at their federal advocacy day in Washington. Also, coming up for renewal will be the VA policy banning them from performing lasers and the Academy expects they will try to fight that.
  - **Contact Lens Rule Changes** – The FTC has been, for the last few years, working with different changes to the contact lens rule pushed by the online retailers. The latest proposal they have come up with is somewhere in between, but puts a lot of the burden on the prescribing doctor where you have to keep a record for 3 years that the patient has signed that they have received a prescription from you. You can do this in person or through a portal as well, but you do not release the prescription until the patient has signed off on it that they received it. Then you are responsible for keeping track of that record if they come asking for it.
  - **Surprise Billing** – This is a big deal in a lot of other societies, but not ophthalmology. The Academy has a position on that – endorsing an arbitration model. The concern with allowing insurers to set the tone is that they will have their prices set so low that they can't attract physicians to join their panels, but if they are allowed to set the pricing there is no incentive for them to raise their prices and pay us what we think we are worth, but we can't get paid more because of the surprise billing legislation. So, if there is an arbitration model between physicians and insurance companies coming to a happy medium in what patients can be billed, that is to our advantage.
- **Downeast Ophthalmology Symposium Update** – *Samuel Solish, MD*
    - Dr. Solish welcomed everyone to the conference which he said should be a really good one. He noted that one speaker cancelled due to back issues, so other speakers filled in the gaps.
    - Dr. Solish reminded everyone that the Harbor Cruise will leave at 5:00pm sharp this evening.
    - He noted that Gordon Smith will be giving the Keynote on Saturday at 10:45am.
    - Every year we try to start planning early and we have already secured 5 speakers for DOS 2020. So, we need one more Cornea/Cataract speaker and a Keynote if anyone has any suggestions, let us know. The only problem with Cataract for 2020 is a conflict with the ESCRS Meeting, so there is some competition with speakers.
    - Dr. Solish thanked everyone on the Planning Committee and welcomed other members to join the Planning Committee. He shared that Stephen Martin, MD has asked to rejoin the Committee.

- Dr. Solish then thanked Shirley for her really superb work. He said he wanted to share again for anyone who may not have been present when he shared previously, but Bruce Spivey, who preceded David Parke and Dunbar Hoskins in the role of CEO for the Academy came here to speak here once and wrote an email after the conference that this was the best organized conference he has ever been to and it is because of Shirley. He then made a motion to give Ms. Goggin a bonus of \$1,000 again this year which was seconded and approved.

- **Next Meeting – May 1, 2020**

Dr. Kelley announced that the spring meeting will take place on Friday, May 1, 2020 at the Harraseeket Inn in Freeport. He encouraged members to let him or Shirley know if anyone has suggestions for speakers/topics for the 2 hours of CME. Dr. Rice shared that he thought Dr. Chirag Shah was great at the last meeting.

Dr. Kelley thanked everyone for attending and wished everyone a great weekend at the conference. With no other business, the meeting was adjourned at 11:47am.

Respectfully submitted,

*Shirley Goggin*

Shirley Goggin, Recorder