

NEBRASKA BOARD OF MEDICINE AND SURGERY

MEETING MINUTES June 30, 2023

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Chairperson, Brian Keegan, MD, at 9:00 a.m. on June 30, 2023, at the Hampton Inn & Suites, 7343 Husker Circle, Lincoln, Nebraska 68504. The meeting was conducted In-Person and by WebEx. The following members answered the roll call:

Brian Keegan, MD, Chairperson
Rachel Blake, MD, Vice-Chairperson
Mark Goodman, MD
Jodanne Hedrick, DO
John Massey, MD
Maria Michaelis, MD

Absent: Jeffrey Howorth
Adam Kuenning, JD, LLM, Secretary

A quorum was present, and the meeting convened.

Also present to participate in the meeting: Jesse Cushman, Program Manager, Jan Gadeken-Harris, Health Licensing Coordinator, with the Licensure Unit; Mindy Lester, Assistant Attorney General; Jim Smith, Assistant Attorney General; Jeff Newman and Mark Meyerson, Investigators with the Investigation Unit; Suzanna Glover-Ettrich, Department Attorney via WebEx and Anna Harrison, DHHS Compliance Monitor for Licensing and Investigations.

Dr. Keegan announced that there is a copy of all the public documents being reviewed at this meeting available in the meeting room pursuant to the Open Meetings Act.

In accordance with Neb. Rev. Stat. § 84-1411 of the Nebraska Open Meetings Act, copies of the agenda were e-mailed to the Board members and other interested parties, posted on the DHHS web site at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx> and posted in the Licensure Unit on June 16, 2023.

REVIEW OF AGENDA

Hedrick moved, seconded by Goodman to approve adoption of the agenda with the Chair having the authority to rearrange agenda items as needed. Voting aye: Blake, Goodman, Hedrick, Keegan, Massey and Michaelis. Voting nay: None. Absent: Howorth and Kuenning. Abstain: None. Motion carried.

Additions, Modification, Reordering

The Board requested the following applications to be removed from the Application Review Consent Agenda:

Fatteh, Parvez, MBBS – Initial Application
Graham, Jeffrey, MD – Initial Application
Fraser, Jeffrey, MD – Reinstatement after Discipline, Requesting Early Release from Probation
Fuller, Samuel, MD – Reinstatement after Discipline, Requesting Early Release from Probation
Johnson, Rajitha, MBBS – Reentry License, Request for Conversion
Vonderfecht, Scott, MD – Request for PA Waiver

PUBLIC PRESENTATION

Dr. Jeffrey Fraser was present at the meeting. Dr. Fraser addressed the Board regarding his Reinstatement after Discipline Physician Application requesting early release from probation that has been submitted for Board review.

2023 LEGISLATION UPDATES

Amy Reynoldson, Executive Vice President and Paul Henderson, Vice President, Advocacy & Regulation; In-house Counsel with the NMA (Nebraska Medical Association) were present to discuss and provide updates to the Board.

- LB16 Require occupational boards to issue certain credentials based on credentials or work experience in another jurisdiction and make a determination regarding an applicant with a criminal conviction, provide for jurisprudential examinations and appeals from denial of a license, and change requirements for membership of the State Electrical Board
Referred to Government, Military and Veterans Affairs Committee
The NMA opposes this bill as written
Hearing held February 9, 2023
Placed on General File with AM748
To learn more about LB16 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB16.pdf>
- LB68 Increase limits on medical malpractice liability and change provisions of the Nebraska Hospital-Medical Liability Act
Referred to Banking, Commerce and Insurance Committee
The NMA supports this bill
Hearing held January 30, 2023
Amendments adopted February 16, 2023
Provisions/portions of [LB68](#) amended into [LB92](#) by [AM1364](#)
LB92 Approved by the Governor June 6, 2023
Slip Law: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Slip/LB92.pdf>
To learn more about LB68 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB68.pdf>
- LB92 Provide, change, and eliminate law relating to banking, commerce, insurance, housing, and taxation
Approved by the Governor June 6, 2023
Slip Law: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Slip/LB92.pdf>
To learn more about LB92 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB92.pdf>
- LB138 Adopt updates to federal law relating to motor vehicles and motor carriers and change provisions relating to transportation
Approved by the Governor June 1, 2023
Slip Law: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Slip/LB138.pdf>
To learn more about LB138 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB138.pdf>
- LB181 Provide for filling and refilling prescriptions in certain circumstances
Referred to Health and Human Services Committee
The NMA opposes this bill as written
The Board of Medicine and Surgery submitted a letter in opposition to LB181 to the Legislature
Hearing held February 1, 2023
Amendment filed March 23, 2023
Provisions/portions of [LB181](#) amended into [LB227](#) by [AM1332](#)
LB227 Approved by the Governor June 6, 2023
Slip Law: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Slip/LB227.pdf>
To learn more about LB181 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB181.pdf>
- LB227 Change provisions relating to public health and welfare
Approved by Governor on June 6, 2023
Slip Law: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Slip/LB227.pdf>
To learn more about LB227 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB227.pdf>

- LB286 Provide for confidentiality of a physician wellness program under the Uniform Credentialing Act
Referred to Health and Human Services Committee
The NMA supports this bill as written
Hearing held February 9, 2023
Provisions/portions of [LB286](#) amended into [LB227](#) by [AM1477](#)
LB227 Approved by the Governor June 6, 2023
Slip Law: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Slip/LB227.pdf>
To learn more about LB286 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB286.pdf>
- LB351 Increase and eliminate limits on medical malpractice liability and change provisions relating to proof of financial responsibility and the Excess Liability Fund
Referred to Judiciary Committee
The NMA opposes this bill as written
Hearing Scheduled for February 24, 2023
To learn more about LB351 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB351.pdf>
- LB419 Require submission of a Medicaid state plan amendment to extend postpartum coverage
Provisions/portions of [LB419](#) amended into [LB227](#) by [AM1989](#)
LB227 Approved by the Governor June 6, 2023
Slip Law: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Slip/LB227.pdf>
To learn more about LB419 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB419.pdf>
- LB422 Exempt certain activities from disciplinary action under the Uniform Credentialing Act
Referred to Health and Human Services Committee
The NMA opposes this bill as written
Hearing Held February 16, 2023
Amendment filed February 23, 2023
To learn more about LB422 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB422.pdf>
- LB574 Adopt the Let Them Grow Act
Referred to Health and Human Services Committee
The NMA opposes this bill as written
There has been a lot of activity and amendments with this bill
Provisions/portions of [LB626](#) amended into [LB574](#) by [AM1658](#)
Passed on final reading and presented to the Governor May 19, 2023
Approved by the Governor on May 22, 2023
Slip Law: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Slip/LB574.pdf>
To learn more about LB574 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB574.pdf>
- LB626 Adopt the Nebraska Heartbeat Act
Referred to Health and Human Services Committee
The NMA opposes this bill as written
Multiple Amendments filed
Provisions/portions of [LB626](#) amended into [LB574](#) by [AM1658](#)
LB 574 Approved by the Governor May 22, 2023
Slip Law: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Slip/LB574.pdf>
To learn more about LB626 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB626.pdf>
- LB810 Adopt the Medical Ethics and Diversity Act
Referred to Health and Human Services Committee
Hearing February 10, 2023
Multiple Amendments filed
To learn more about LB810 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB810.pdf>

A new credentialing review (407) application has recently been filed for Hearing Care Professionals. To learn more about the application go to: [https://dhhs.ne.gov/licensure/Pages/Credentialing-Review-\(407\)-Hearing-Care-Professionals.aspx](https://dhhs.ne.gov/licensure/Pages/Credentialing-Review-(407)-Hearing-Care-Professionals.aspx)

Access to care issues that the NMA will be preparing to meet with Medicaid regarding:

- Photo screening and vision screening recommended for children ages 1-5 years
- Dialysis for undocumented people for treatment care costs

NMA is also continuing to consult with the FSMB and other States regarding their Physician Health Programs (PHP) to develop a PHP for Nebraska. The NMA will also be reaching out to the AG's office. Wisconsin and Nebraska are the only states currently that do not have a PHP.

Truth in Advertising – legislation that enforces health care professionals to introduce themselves to the public under their appropriate license affiliation. The concern is for the health care professional engaging with the patient to introduce themselves appropriately, for example as a MD or DO or APRN or DPM, etc. to avoid deceptive practices or miscommunication. This also includes online advertisements.

NMA Annual Membership Meeting & Awards Luncheon will be held Friday, August 18, 2023, at the NE Innovation Campus Conference Center in Lincoln, NE – 8:00am to 4:30pm. To learn more about the meeting agenda and how to register go to: <https://www.nebmed.org/about/annual-membership-meeting-2023>
There are many informative sessions planned for example “Consumerization of Healthcare: Surviving Tech Disruption in Health” and “AI in Healthcare” both by Joel Selanikio, MD

REGULATIONS UPDATE

There were no updates on Regulations currently.

APPROVAL OF MINUTES OF THE MEETING

Hedrick moved, seconded by Goodman to approve the minutes for May 19, 2023, as presented. Voting aye: Blake, Hedrick, Massey and Michaelis. Voting nay: None. Absent: Howorth and Kuenning. Abstain: Goodman and Keegan. Motion carried.

INVESTIGATIONAL REPORTS, DISCIPLINARY REPORTS, APPLICATION REVIEW – CLOSED SESSION

Goodman moved, seconded by Hedrick, to go into closed session at 10:05 a.m. for the purpose of review and discussion of investigative reports, disciplinary reports, licensure applications, and other confidential information, and for the prevention of needless injury to the reputation of the individuals. Voting aye: Blake, Goodman, Hedrick, Keegan, Massey and Michaelis. Voting nay: None. Absent: Howorth and Kuenning. Abstain: None. Motion carried.

The Board members returned to Open Session at 12:35 p.m.

APPLICATION REVIEW – OPEN SESSION

BOARD RECOMMENDATIONS ON APPLICATIONS FOR LICENSURE AND REGISTRATION

Physician and Osteopathic Physician Initial Application(s) (2)

FATTEH, PARVEZ, MBBS - application for Initial license to practice medicine and surgery. Hedrick moved, seconded by Massey, to recommend approval of the application to practice medicine and surgery. Voting aye: Blake, Goodman, Hedrick, Keegan, Massey and Michaelis. Voting nay: None. Absent: Howorth and Kuenning. Abstain: None. Motion carried.

GRAHAM, JEFFREY, MD - application for Initial license to practice medicine and surgery. Hedrick moved, seconded by Massey, to recommend approval of the application to practice medicine and surgery. Voting aye: Blake, Goodman, Hedrick, Keegan, Massey and Michaelis. Voting nay: None. Absent: Howorth and Kuenning. Abstain: None. Motion carried.

Physician and Osteopathic Physician Reinstatement after Discipline Application(s) (2)

FRASER, JEFFREY, MD – application for Reinstatement after Discipline, requesting early release from probation on the license to practice medicine and surgery. Hedrick moved, seconded by Blake to recommend denial of the request for early release from probation on the license. Basis for the denial is that there is insufficient evidence to change the original agreed upon probationary period that was set forth in the Agreed Settlement dated July 25, 2019. Voting aye: Blake, Goodman, Hedrick, Keegan, Massey and Michaelis. Voting nay: None. Absent: Howorth and Kuenning. Abstain: None. Motion carried.

FULLER, SAMUEL, MD – application for Reinstatement after Discipline, requesting early release from probation on the license to practice medicine and surgery. Hedrick moved, seconded by Massey to recommend denial of the request for early release from probation on the license. Basis for the denial is that there is insufficient evidence to change the original agreed upon probationary period that was set forth in the Agreed Settlement dated January 30, 2020. Voting aye: Blake, Goodman, Hedrick, Keegan, Massey and Michaelis. Voting nay: None. Absent: Howorth and Kuenning. Abstain: None. Motion carried.

Physician and Osteopathic Physician Reentry Application(s) (1)

JOHNSON, RAJITHA, MBBS – application for conversion of the reentry license limitations to a license with no limitations. Hedrick moved, seconded by Massey to recommend approval of the conversion with no limitations. Voting aye: Blake, Goodman, Hedrick, Keegan, Massey and Michaelis. Voting nay: None. Absent: Howorth and Kuenning. Abstain: None. Motion carried.

Physician Assistant Waiver Request Application(s) (1)

VONDERFECHT, SCOTT, MD – application requesting supervision for two (2) additional physician assistants. Hedrick moved, seconded by Michaelis, to recommend denial of the request to supervise two (2) additional physician assistants. Basis was insufficient evidence to support the waiver request. Voting aye: Blake, Goodman, Hedrick, Keegan, Massey and Michaelis. Voting nay: None. Absent: Howorth and Kuenning. Abstain: None. Motion carried.

BOARD DISCUSSION(S)

A. Concerns regarding safety of the public for procedures provided by Unlicensed providers.

The Board will postpone this discussion until the August meeting to enable Ginger Roger, RN, DHHS Nursing Practice Consultant to attend the meeting to engage in the discussion with the Board.

B. Composition of a Board of Medicine and Surgery Newsletter.

Dr. Hedrick has some ideas and samples from other States that publish a newsletter. Jesse will also do research on other DHHS newsletters and provide some data for the Board. The Board will postpone further discussion on this topic until the August meeting.

BOARD MEETING SCHEDULE

The next meeting is scheduled for August 4, 2023, in the Husker Conference Room at the Hampton Inn & Suites. To see a complete list of the projected schedule, visit the DHHS website:

<https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>

ADJOURNMENT

There being no further business, Keegan, Chairperson adjourned the meeting at 12:46 p.m.

Respectfully submitted,

signature available upon request

Rachel Blake, MD, Vice-Chairperson
Board of Medicine and Surgery