

NEBRASKA BOARD OF MEDICINE AND SURGERY

MEETING MINUTES October 21, 2022

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Chairperson, Jodanne Hedrick, DO, at 9:00 a.m. on October 21, 2022, 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:

Jodanne Hedrick, DO, Chairperson
Brian Keegan, MD, Vice-Chairperson
Rachel Blake, MD, Secretary
Mark Goodman, MD
Jeffrey Howorth
Adam Kuenning
John Massey, MD
Maria Michaelis, MD

Absent: None

A quorum was present and the meeting convened.

Also present to participate in the meeting: Jesse Cushman, Program Manager, Jan Gadenken-Harris, Health Licensing Coordinator, Licensure Unit; Mindy Lester, Assistant Attorney General; T. J. O'Neill, Assistant Attorney General; Mark Meyerson, Trevor Klaasen, Kathleen Krueger, Jeff Newman, Carla Cue and Mendy Mahar-Clark Investigators with the Investigation Unit; Suzanna Glover-Ettrich, Jennifer Mirales and Emily Yslas, Department Attorneys via WebEx and Anna Harrison, DHHS Compliance Monitor for Licensing and Investigations.

Dr. Hedrick 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 October 7, 2022 and revision posted on October 14, 2022.

REVIEW OF AGENDA

Kuenning 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, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Additions, Modification, Reordering

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

Thodeson, Drew, MD – Initial Application
Miller, Steven, MD – Reinstatement Application
Qureshi, Adnan, MBBS – Reinstatement Application
Fraser, Jeffrey, MD – Reinstatement after Discipline Requesting Early Release from Probation

The Board requested the Pharmaceutical Care Agreements to be moved to Closed Session for discussion.

2022 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.

Updates on the 407 Credentialing Reviews for scope of practice expansions:

- **Nebraska Optometric Association**
A meeting was held on September 9, 2022. To see the minutes from that meeting and updates go to: [https://dhhs.ne.gov/licensure/Pages/Credentialing-Review-\(407\)-Optometry.aspx](https://dhhs.ne.gov/licensure/Pages/Credentialing-Review-(407)-Optometry.aspx)
- **Anesthesiologist Assistant**
A meeting was held October 19, 2022. To see the minutes from that meeting and updates go to: [https://dhhs.ne.gov/licensure/Pages/Credentialing-Review-\(407\)-Anesthesiologist-Assistant.aspx](https://dhhs.ne.gov/licensure/Pages/Credentialing-Review-(407)-Anesthesiologist-Assistant.aspx)
The next scheduled meeting is December 7, 2022.

The Hospital Medical Liability Fund/Excess Liability Fund is still a concern, in its current state it is not sustainable. The NMA is involved in looking at increasing the liability limits.

NMA is following the Gold Card Legislation. This bill exempts physicians from prior authorization requirements under Medicare Advantage plans with respect to specific items and services if at least 90% of the physician's requests for such items and services were approved during the previous plan year.

NMA is watching for a Bill to come up concerning expanding post-partum Medicaid coverage from 60 days to 12 months.

The NMA's "LifeBridge Nebraska" program is considering making some internal changes regarding insurance coverage and confidentiality concerns.

Hepatitis C – the NMA adopted a resolution to advocate for the removal of the cannabis use restriction in the Medicaid "sobriety clause".

Post-Acute Care Placement – the NMA is involved in a work group with DHHS and hospital and health care associations to find solutions to address these challenges.

NMA is following the implementation of the DHHS MCO (managed care organization) contract to Molina a 5 year contract starting January 2024.

REGULATIONS UPDATE

There were no Regulation updates to discuss at this time.

APPROVAL OF MINUTES OF THE MEETING

Goodman moved, seconded by Keegan to approve the minutes for August 5, 2022 as presented. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

INVESTIGATIONAL REPORTS, DISCIPLINARY REPORTS, APPLICATION REVIEW – CLOSED SESSION

Blake moved, seconded by Goodman, to go into closed session at 9:37 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, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

The Board members returned to Open Session at 11:58 a.m.

APPLICATION REVIEW – OPEN SESSION

BOARD RECOMMENDATIONS ON APPLICATIONS FOR LICENSURE AND REGISTRATION

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

THODESON, DREW, MD – application for Initial license to practice medicine and surgery. Kuenning moved, seconded by Goodman, to recommend approval of the application to practice medicine and surgery with Probation. The basis for the probation is action in another state. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Physician and Osteopathic Physician Reinstatement Application(s) (3)

EDWARDS, JEFFREY LEE, MD - application for Reinstatement of the license to practice medicine and surgery. Kuenning moved, seconded by Howorth to recommend denial of the application for Reinstatement of the license to practice medicine and surgery. The basis for denial is the surrender of the DEA registration for cause and the suspension from Nebraska Medicaid privileges. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

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

QURESHI, ADNAN, MBBS - application for Reinstatement of the license to practice medicine and surgery. Michaelis moved, seconded by Massey, to recommend approval of the application for Reinstatement of the license to practice medicine and surgery with a Censure for failure to report discipline of the license in another state and failure to report a liability settlement. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Physician and Osteopathic Physician Reinstatement after Discipline Application(s) (1)

FRASER, JEFFREY, MD – application for Reinstatement after Discipline, requesting early release from probation on the license to practice medicine and surgery. Kuenning moved, seconded by Howorth 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, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Email Ballot(s) since the last meeting (1)

The Board voted at the meeting on August 5, 2022, to draft a letter in opposition of the Optometry 407 Review. The draft letter was sent to the Board by Email Ballot and was approved unanimously. The letter was sent to the Optometry 407 Review Committee on August 12, 2022.

PHARMACEUTICAL CARE AGREEMENT(S)

Blake moved, seconded by Michaelis to make notice to the Pharmacy Board that the Board does not support the utilization of the live smallpox vaccine mentioned in the Pharmaceutical Care Agreements. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

ANESTHESIOLOGIST ASSISTANT CREDENTIALING REVIEW (407) DISCUSSION

The Board reviewed a draft letter written in support of the Anesthesiologist Assistant 407 Credentialing Review Application. Massey moved, seconded by Blake to approve and send the letter to the 407 Review Committee. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

PAIN MANAGEMENT GUIDANCE DISCUSSION TO REVIEW AND OR ADOPT POLICIES AND GUIDELINES

Davidson Wissing, Drug Overdose Prevention Coordinator, Public Health, was present to discuss the “Nebraska Pain Management Guidance Document” with the Board. Currently the “Nebraska Pain Management Guidance Document” is compliant. The Board will entertain any suggestions for re-evaluation and or revisions annually. To view the “Nebraska Pain Management Guidance Document” go to:

<https://dhhs.ne.gov/DOP%20document%20library/Pain%20Management%20Pain%20Guidance.pdf#search=pain%20management%20guidance>

DIRECT COMMUNICATION RESPONSE

Periodically Board members will be approached by members of the public requesting comments on a particular subject. Jesse Cushman, Program Manager advised the Board that these requests should be referred to the Department and or Department Legal for comment.

As a reminder, Nebraska is a complaint driven Board/State. Every credentialed person who has first-hand/direct knowledge of unlicensed, illegal or unethical activities is required to report (including self-reports) within 30 days of the occurrence. Failure to report may result in discipline. To learn more about the complaint process go to the Investigation Unit pages on the DHHS public website: <https://dhhs.ne.gov/Pages/Investigations.aspx>

PRACTICE QUESTIONS

- A. The Board’s interpretation of “incidentally called into this state” as stated in NE Statutes 38-2025 (6)
The Board has chosen not to specify the term. When the Department has clarified this term in the past anything that is routine however infrequent would require a license.
- B. May an out of state licensed physician provide virtual (audio/visual) consultation to a NE licensed physician while the patient is included in the video communication?
The Board recommended consulting your own legal counsel. This is not addressed specifically in the statute. It may also help to review the Nebraska telehealth statutes. The Medicine and Surgery Statutes and Regulations and the UCA and the Telehealth Act can all be reviewed on the DHHS public website: <https://dhhs.ne.gov/licensure/Pages/Medicine-and-Surgery.aspx>
- C. Do NE Statutes/Regulations differentiate as to how the out of state licensed physician may provide consultative services to the NE licensed physician (i.e. over the phone or by video)?
The Board recommended consulting your own legal counsel. This is not addressed specifically in the statute. It may also help to review the Nebraska telehealth statutes. The Medicine and Surgery Statutes and Regulations and the UCA and the Telehealth Act can all be reviewed on the DHHS public website: <https://dhhs.ne.gov/licensure/Pages/Medicine-and-Surgery.aspx>

BOARD MEETING SCHEDULE

The next meeting is scheduled for December 9, 2022 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, Hedrick, Chairperson adjourned the meeting at 12:30 p.m.

Respectfully submitted,

signature available upon request

Rachel Blake, MD, Secretary
Board of Medicine and Surgery