

**NEBRASKA STATE BOARD OF HEALTH MEETING**  
**MINUTES – NOVEMBER 14, 2022**

**ATTENDANCE NOTIFICATION.** Dr. Timothy Tesmer, Chair, called a regular meeting of the State Board of Health to order at 1:00 PM on November 19, 2022, in Conference Room Lower Level B of the Nebraska State Office Building in Lincoln. Copies of the agenda were mailed electronically to board members and other interested parties prior to the meeting, and posted on the Health and Human Services website and bulletin board. The following members were present: Heather Cramer, RN; Russell Crotty, OD; Jaime Dodge, MD; Michael Kotopka, DDS; John Kuehn, DVM; Donald Ostdiek, DPT; David Reese, MHA; Daniel Rosenthal, PE; Robert (Bud) Synhorst; Timothy Tesmer, MD; Doug Vander Broek, DC; Dan Vehle. Quorum met.

Staff and others in attendance: Monica Gissler, Ryan Burbach, Caryn Vincent. DHHS attorney Teresa Hampton attended via Webex.

Board members not in attendance: Doug Bauer, DO; Diane Jackson, APRN; Mark Patefield, PharmD; Joshua Vest, DPM.

**APPROVAL OF AGENDA AND MINUTES.** Dr. Tesmer asked if there were any changes to the agenda for the meeting today and the minutes from September 19, 2022, and to the agenda for today. Dr. Kuehn made a motion to approve the agenda, seconded by Mr. Reese; voting yes: 12 (Cramer, Crotty, Dodge, Kotopka, Kuehn, Ostdiek, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle); voting no: 0; not voting: 0. Motion carried.

**UPDATES, REPORTS**

Dr. Gary Anthone, Chief Medical Officer, Division of Public Health presented.

- There is not much news with Monkeypox. Cases are still at 31, with no new cases in the last two months.
- There was an Ebola outbreak in Uganda, but it is slowing down. It impacts Nebraska because of the Biocontainment Unit at University of Nebraska Medical Center.
- The Covid re-infection rate is at 20%. Dr. Anthone shared a document with statistics. As of November 13, 2022, there are 194 current cases in Nebraska.
- RSV is the big thing right now, along with influenza. It hit earlier this year than expected. The pediatric beds at Children's Hospital in Omaha are 100% filled, but there are open pediatric beds at other Nebraska hospitals.
- Dr. Anthone thanked the Board of Health members for the volunteer work they do.

Legislation – Nicole Barrett, JD, Director of Legislative Services. With the focus on the elections, there is not much happening legislatively. DHHS testified at a few interim study hearings, such as child welfare, state ward education issues, and TANF funds, including Medicaid and mental health capacity.

Licensure Unit – Lindsay Braddock, Unit Administrator, reported that they are looking at new options for the Licensing information system. She also reported on new staff and staffing changes.

Board of Health Chair – Dr. Tesmer reported the following:

1. Professional board meetings that they would like to report on.

It is important that you let Monica know in advance when you plan to attend a meeting, and if you plan to attend the entire meeting or just a portion. When you arrive at the meeting, please make a point of introducing yourself to the Board staff, and then to the full Board as the Board of Health liaison. This applies to both in-person and WebEx meetings.

Dr. Vander Broek attended the Board of Chiropractic on October 19<sup>th</sup>.

2. Sheri Dawson, DHHS Director of Behavioral Health, will present on the new 988 emergency system at our January 17<sup>th</sup> meeting.
3. Dan Taylor has accepted the position of DHHS Administrator II for the Facilities Licensure Unit in the Division of Public Health. Dan will oversee state licensure and federal certification of health care facilities and services and certification of community based services providers for persons with developmental disabilities. Dan has served the last 3 ½ years as DHHS Nurse Consultant/Supervisor for Nursing Support, and during the pandemic, he served as the Interim Program Manager for the Office of Long-Term Care Facilities.
4. Board of Health officers for 2023 will be elected at the end of the meeting today.
5. Ideas for meeting presentations or discussions?
  - presentation about the workforce shortage in health care, and managing millennial professions. Mr. Reese will work with Monica on this for March.
6. Ms. Gissler explained the Sharepoint Partner site platform being developed for this board.

**Credentialing Review (407) Committee** – Mr. Rosenthal, Committee Chair, presented.

<https://dhhs.ne.gov/licensure/Pages/Credentialing-Review.aspx>

- Action on the Credentialing Review Committee recommendations for Applied Behavior Analysts Proposal. It was reviewed at the morning Credentialing Review Committee meeting. There was no further discussion. Voting yes: 12 (Cramer, Crotty, Dodge, Kotopka, Kuehn, Ostdiek, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle); not voting: 0. Motion carried.
- Action on the Credentialing Review Committee recommendations for the Optometry Technical Review report. It was reviewed again at the morning Credentialing Review Committee meeting. Go to the Credentialing Review website for the full report. voting yes: 6 (Cramer, Dodge, Kuehn, Reese, Synhorst, Tesmer); voting no: 6 (Crotty, Kotopka, Ostdiek, Rosenthal, Vander Broek, Vehle); not voting: 0. Tie vote so motion not carried. After discussion about why the revote had to take place, and why the Board may not end a vote for a Credentialing Review proposal, Dr. Kuehn

made a motion to table the issue, with a second by Dr. Ostdiek.

- The Anesthesiologist Assistants Technical Review Committee met on October 19, 2022, with Mr. Vehle serving as chair. The public hearing will be on December 7<sup>th</sup>.
- The Pharmacy Technicians Technical Review Committee met on October 26. Dr. Vander Broek is serving as Chair. The next meeting will be November 29<sup>th</sup>.
- Presented draft annual committee report.

**Rules and Regulations Committee** – Mr. Vehle, Committee Vice Chair, reported.  
<https://dhhs.ne.gov/Pages/DHHS-Regulations.aspx>

1. Review the following proposed rules and regulations:

- 178 NAC 23 – Lead Based Paint Activities  
<https://www.nebraska.gov/nesos/rules-and-regs/regtrack/proposals/2577.pdf> These regulations govern the professions and occupations, businesses, training courses, and standards for lead-based paint activities. The proposed changes reflect the current format and removes obsolete or redundant language. The public hearing was held September 19, 2022. No oral comments, no written comments, and no emailed comments were received.
- 179 NAC 20 – Laboratory Certification & Agreement Requirements for Testing Drinking Water  
<https://www.nebraska.gov/nesos/rules-and-regs/regtrack/proposals/2571.pdf> The changes were to remove duplicative statutory language, update definitions, streamline language, update requirements to allow the Nebraska Department of Environment and Energy to determine timely reporting of data, update and clarify requirements for laboratories to perform tests of drinking water, establish effective date and term of certifications, remove attachments from the regulations, update section headings and formatting, and restructure the regulatory chapter. The public hearing was held September 7, 2022. No oral comments, no written comments, and no emailed comments were received.
- 184 NAC 1–6 – Rules Practice & Procedure for PH Administrative Hearings  
<https://www.nebraska.gov/nesos/rules-and-regs/regtrack/proposals/2578.pdf> Title 184 currently governs the conduct of administrative hearings; petitions for declaratory orders; petitions for the promulgation, amendment, or repeal of regulations; and petitions for negotiated rulemaking involving the Division of Public Health, as well as the removal of members of appointed boards by the State Board of Health. The proposed amendments would update the provisions regarding the conduct of administrative hearings and removal of appointed board members, most notably by adopting the provisions of the Attorney General’s “model rules” (Title 53 NAC) for administrative hearings whenever practicable. The proposed amendments would also repeal the provisions in Title 184 regarding petitions for declaratory orders; petitions for the promulgation, amendment, or repeal of regulations; and petitions for

negotiated rulemaking. Instead of the repealed provisions, the Division of Public Health would rely on the Department-wide regulations on these topics in Title 465 NAC which, in turn, adopt the Attorney General's model rules (53 NAC 1-3). Title and chapter names have been updated. Statutory references have been updated and all duplicate statutory language has been removed from the regulations. Chapters 2 – 5 are proposed for repeal. Chapters 1 and 6 are being amended.

The public hearing was held September 19, 2022. No oral, written, or email comments were received.

Mr. Vehle made a committee motion to approve the proposed rules and regulations. voting yes: 12 (Cramer, Crotty, Dodge, Kotopka, Kuehn, Ostdiek, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle); voting no: 0; not voting: 0. Motion carried.

2. UCA Regulation Status Report – <https://www.nebraska.gov/nesos/rules-and-regs/regtrack/index.cgi> -- Kris Chiles
3. Reviewed draft annual committee report.

**Professional Boards Committee.** Dr. Crotty, Committee Vice Chair, reported. They conducted 7 interviews in the morning, and recommend the following appointments:

Board of Alcohol and Drug Counseling  
Thomas Maxson, LIMHP, LADC, SAP, MAC, from Kearney, was reappointed for the term December 1, 2022-November 30, 2027.

Board of Advanced Practice Registered Nurses  
Wesley Zeger, DO, from Omaha was appointed, but it was later determined that he did not meet the requirement of having a professional relationship with a nurse midwife.

Board of Cosmetology  
\* Leslie Reed, Public member from Lincoln, was reappointed for the term December 1, 2022-November 30, 2027.

Lydia "Jane" Nims from Lincoln was appointed as the Cosmetology School Owner, for the term December 1, 2022-November 30, 2027.

Board of Psychology  
Johnna Williams, PsyD, LP, from York was appointed to the Psychologist term, December 1, 2022-November 30, 2027.

Dr. Crotty made a Committee motion to approve the recommendations. Voting yes: 12 (Cramer, Crotty, Dodge, Kotopka, Kuehn, Ostdiek, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle); voting no: 0; not voting: 0. Motion carried.

There are 27 planned professional board vacancies in 2023.

We are still seeking applicants for a few professional member positions.  
<https://dhhs.ne.gov/licensure/Pages/Board-Requirements-and-Vacancies.aspx>

Presented draft annual committee report.

**Public Health, Education and Legislation Committee:** Dr. Kuehn, Committee Chair, reported. They discussed options for meeting with or briefing the HHS Committee and other newly elected senators in January, 2023. Dr. Kuehn will contact Governor-Elect Pillen about attending a Board of Health meeting.

- Subgroup Updates
  - Cannabis Bill – Dr. Kuehn distributed a revised position statement, and made a Committee motion for approval: Voting yes: 12 (Cramer, Crotty, Dodge, Kotopka, Kuehn, Ostdiek, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle); voting no: 0; not voting: 0. Motion carried. Position statement attached.
  - Child Covid Vaccines – This issue will remain on the back burner, unless there are any changes to school requirements for vaccines.
- Dr. Kuehn thanked Dr. Anthone for taking the time to attend the Board of Health meetings.
- There will be a PHEL Committee conference call at 11:00 AM on January 13, 2023.
- Reviewed draft annual committee report.

**PUBLIC COMMENTS.** Nathan Arentsen addressed the board regarding a personal incident he experienced with a mental health provider. It opened a discussion about how can the Board of Health make recommendations to professional boards regarding complaints and other issues. Gender neutrality in DHHS training materials was also discussed. This will be revisited in January.

### **UNFINISHED BUSINESS.**

### **NEW BUSINESS.**

- Election of Officers for 2023. Nominations were opened up:
- Chair – Dr. Tesmer was nominated for a second term.
- Vice Chair – Mr. Synhorst was nominated for a third term. Mr. Reese was nominated, but withdrew for this position.
- Secretary – Mr. Reese was nominated for a second term.

All nominations were accepted. As there was only one candidate per office, there was one motion for all three positions. Congratulations to our returning officers.

**TOPICS AND PREPARATION FOR NEXT MEETING.** The next regular Board of Health meeting will be Tuesday, January 17, 2023 in the Nebraska State Office Building in Lincoln.

2023 Board of Health meeting dates:

January 17, 2023

March 20, 2023

June 12, 2023  
September 18, 2023  
November 13, 2023

**ADJOURN**. There being no further business, Dr. Vander Broek made a motion to adjourn, with a second by Dr. Crotty; all in favor by voice vote. The meeting adjourned at 2:56 PM. Minutes were taken by Monica Gissler and were approved by the State Board of Health on January 17, 2023.

***NOTE:*** If you would like to receive these minutes electronically, please send a request to the email address below. Please also inform staff if you would like to be removed from this distribution list altogether.

*If you would like any attachments mentioned in these minutes, or have other questions, please contact Monica Gissler, 402/471-2948, or email at: [monica.gissler@nebraska.gov](mailto:monica.gissler@nebraska.gov).  
Board of Health: <https://dhhs.ne.gov/licensure/Pages/Board-of-Health.aspx>*

Rev 1/18/23, mcg

### **The Nebraska State Board of Health Affirms:**

- Cannabis has not been approved by the Food and Drug Administration (FDA) for preventing or treating any disease process.
- The Board does not recommend patient use of non-FDA approved cannabis or cannabis derived products. It further recognizes the FDA has approved synthetic cannabis-derived medications for specific indications (Marinol, Syndros, Cesamet and Epidiolex.)
- Should scientific evidence support the use of cannabis derived substances to prevent or treat specific conditions, the substance should be subject to the approval process of the FDA.
- Policy and medical practice surrounding cannabis and cannabis-derived substances should not be altered until sufficient clinical evidence supports such changes.
- To be considered a medicine, cannabis products should be dispensed in a standardized product subject to the same regulations as a prescription drug product in a manner to ensure patient safety and clinical efficacy through consistent potency and quality.
- The Controlled Substances Act lists cannabis on Schedule I, defined as drugs with no currently accepted medical use and a high potential for abuse. All Nebraska licensed medical professionals holding a DEA registration certificate must honor the tenants of their certification.

***Therefore, the Nebraska State Board of Health finds that cannabis for medicinal use should not be legalized through the state legislative, ballot initiative, or referendum process. Legalization of any medicine for the prevention or treatment of any disease process should occur through the same rigorous, evidence based scientific process standard for all prescription medications.***

Approved on November 14, 2022