

## **NEBRASKA BOARD OF MEDICINE AND SURGERY**

### **MEETING MINUTES**

**February 9, 2024**

#### **ROLL CALL**

The meeting of the Board of Medicine and Surgery was called to order by Vice-Chairperson, Rachel Blake, MD, at 9:02 a.m. on February 9, 2024, 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:

Rachel Blake, MD, Vice-Chairperson  
Adam Kuenning, JD, LLM, Secretary  
Mark Goodman, MD  
Jodanne Hedrick, DO  
Jeffrey Howorth  
John Massey, MD

Absent: Brian Keegan, MD, Chairperson  
Wesley Zeger, DO

A quorum was present, and the meeting convened.

Also present to participate in the meeting: Vonda Apking, Program Manager, and Jan Gadeken-Harris, Health Licensing Coordinator, with the Licensure Unit; Mindy Lester, Assistant Attorney General; Abigail Nissen, Assistant Attorney General; Kathleen Krueger, Trevor Klaassen and Mark Meyerson, Investigators with the Investigation Unit; Suzanna Glover-Etrich, Department Attorney via WebEx and Anna Harrison, DHHS Compliance Monitor for Licensing and Investigations.

Dr. Blake 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 January 26, 2024.

#### **REVIEW OF AGENDA**

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

#### **Additions, Modification, Reordering**

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

Atkins, Broadus, MD – Initial Application  
Sullivan, Rashad, MD – Initial Application  
Poulsen, Jeremy, DO – Reinstatement Application  
Ali, Maman, MD – Reinstatement after Suspension  
Simonsen, Brittanie, PA – Reinstatement after Suspension  
Dudek, Olivia, MD – Initial Application Temporary Education Permit

The Board requested that all the Pharmaceutical Care Agreements be removed from the Pharmaceutical Care Agreements Consent Agenda.

## **PRESENTATION BEFORE THE BOARD**

Olivia Dudek, MD and her Attorney, Susan Sapp made a presentation to the Board regarding Dr. Dudek's application for an Initial Temporary Educational Permit.

## **2024 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 for the 108<sup>th</sup> Legislature, Second Session which convened January 3, 2024. The NMA is following many Bills this session and the following are some of the Bills that may be of interest to the Board:

**LB823** - Adopt the Physician Assistant (PA) Licensure Compact and change provisions relating to criminal background checks.

Hearing date February 22, 2024

The NMA is monitoring the Bill.

To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB823.pdf>

**LB829** - Change provisions relating to insurance coverage for screening for colorectal cancer.

Hearing was held on January 22, 2024.

Amendments have been adopted - AM2108 <https://nebraskalegislature.gov/FloorDocs/108/PDF/AM/AM2108.pdf>

and AM2384 <https://nebraskalegislature.gov/FloorDocs/108/PDF/AM/AM2384.pdf>

The NMA is in support of the Bill.

To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB829.pdf>

**LB857** - Create the Nebraska Prenatal Plus Program

Hearing was held on February 7, 2024.

Amendment AM2409 has been adopted: <https://nebraskalegislature.gov/FloorDocs/108/PDF/AM/AM2409.pdf>

The NMA is in support of the Bill.

To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB857.pdf>

**LB885** - Provide requirements for insurance coverage of lung cancer screening

Hearing was held on January 22, 2024.

The NMA is in support of the Bill.

To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB885.pdf>

**LB907** - Require medicaid coverage for treatment of obesity.

Hearing date February 15, 2024

The NMA is in support of the Bill.

To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB907.pdf>

**LB913** - Require a state plan amendment for postpartum coverage under the Children's Health Insurance Program

Hearing was held February 2, 2024

The NMA is in support of the Bill.

To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB913.pdf>

**LB917** - Require the establishment of a standard prior authorization process for health benefit plans and the approval and use of prior authorization forms.

Hearing date February 13, 2024

The NMA is in support of the Bill.

To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB917.pdf>

**LB933** - Change Medicaid coverage requirements for continuous glucose monitors

Hearing was held February 8, 2024

The NMA is in support of this Bill.

To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB933.pdf>

LB1024 - Change provisions relating to documents and information provided to an independent review organization under the Health Carrier External Review Act  
Hearing was held on January 23, 2024.  
The NMA is monitoring the Bill.  
To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB1024.pdf>

LB1060 - Provide an exemption from newborn screening.  
Hearing was held January 31, 2024.  
The NMA is opposed to this Bill.  
To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB1060.pdf>

LB1087 - Adopt the Hospital Quality Assurance and Access Assessment Act  
Hearing was held February 2, 2024  
Amendments have been adopted – AM2404 <https://nebraskalegislature.gov/FloorDocs/108/PDF/AM/AM2404.pdf>  
and AM2512 <https://nebraskalegislature.gov/FloorDocs/108/PDF/AM/AM2512.pdf>  
The NMA is in support of this Bill.  
To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB1087.pdf>

LB1109 - Provide an exception under the Preborn Child Protection Act to allow an abortion after twelve weeks in the case of a fatal fetal anomaly and change and eliminate certain penalty provisions relating to abortions.  
Hearing date February 22, 2024  
To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB1109.pdf>

LB1278 - Provide for reimbursement of doula and full spectrum doula services under the Medical Assistance Act  
Hearing date February 14, 2024  
To learn more about this Bill go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB1278.pdf>

## **REGULATIONS UPDATE**

There are no updates currently.

## **APPROVAL OF MINUTES OF THE MEETING**

Goodman moved, seconded by Massey to approve the minutes for December 8, 2023, as presented. Voting aye: Blake, Goodman, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: None. Motion carried.

## **INVESTIGATIONAL REPORTS, DISCIPLINARY REPORTS, APPLICATION REVIEW – CLOSED SESSION**

Howorth moved, seconded by Hedrick, 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, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: None. Motion carried.

Kuenning Recused himself at 9:38 a.m.  
Kuenning Returned at 9:47 a.m.

Board Break 10:35 a.m.  
Board Reconvened 10:47 a.m.

Goodman Recused himself at 11:01 a.m.  
Goodman Returned at 11:14 a.m.

The Board members returned to Open Session at 11:51 a.m.

## **APPLICATION REVIEW – OPEN SESSION**

### **BOARD RECOMMENDATIONS ON APPLICATIONS FOR LICENSURE AND REGISTRATION**

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

ATKINS, BROADUS, MD – application for Initial license to practice medicine and surgery. Hedrick moved, seconded by Howorth, to recommend denial of the application for initial license to practice medicine and surgery. The basis for the denial is action in other states and misdemeanor conviction. Voting aye: Blake, Goodman, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: None. Motion carried.

SULLIVAN, RASHAD, MD – application for Initial license to practice medicine and surgery. Hedrick moved, seconded by Blake, to recommend approval of the application for initial license to practice medicine and surgery. Voting aye: Blake, Goodman, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: None. Motion carried.

#### **Physician and Osteopathic Physician Reinstatement Application(s) (1)**

POULSEN, JEREMY, DO – application for Reinstatement of his license to practice medicine and surgery. Hedrick moved, seconded by Howorth, to recommend denial of the application for reinstatement of his license to practice medicine and surgery. Basis for the denial is substance use disorder.

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

ALI, MAMAN, MD – application for Reinstatement after Suspension of his license to practice medicine and surgery. Goodman moved, seconded by Howorth to recommend denial of the request for reinstatement of the license. Basis for the denial is that there is insufficient evidence submitted to support the reinstatement. Voting aye: Blake, Goodman, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: None. Motion carried.

#### **Physician Assistant Reinstatement after Discipline Application(s) (1)**

SIMONSEN, BRITTANIE, PA – application for Reinstatement after Suspension of her license to practice medicine and surgery as a Physician Assistant. Goodman moved, seconded by Howorth to recommend denial of the request for reinstatement of the license. Basis for the denial is that there is insufficient evidence submitted to support her recovery and sobriety. Voting aye: Blake, Goodman, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: None. Motion carried.

#### **Temporary Educational Permit Initial Application(s) (1)**

DUDEK, OLIVIA, MD – application for Initial permit to practice medicine and surgery with a Temporary Educational Permit. Kuenning moved, seconded by Howorth, to recommend approval of the application for initial permit to practice medicine and surgery with a Temporary Educational Permit with a three (3) year probation. Basis for the probation is previous evidence of substance abuse. Voting aye: Blake, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: Goodman. Motion carried.

## **PHARMACEUTICAL CARE AGREEMENT(S)**

Kuenning acknowledges the Board's receipt of the Pharmaceutical Care Agreements

## **FSMB (FEDERATION OF STATE MEDICAL BOARDS) 2024 ANNUAL MEETING**

The FSMB annual meeting is scheduled for April 18-20, 2024, in Nashville, TN. Registration is now open for anyone interested in attending:

<https://web.cvent.com/event/dd646f9a-dae1-4a5d-9e6f-5393ce813464/summary>

The Board members will consult their schedules to determine if they are available to attend. The Board will discuss at the next meeting in March who will be available to represent the Nebraska Board.

## **FSMB 2024 SYMPOSIUM ON ARTIFICIAL INTELLIGENCE (AI) IN HEALTH CARE & MEDICAL REGULATION**

Vonda Apking attended the meeting to represent the Board and the Department. The meeting was held in Washington D.C. on January 17, 2024. Vonda noted that there were interesting discussions on who needs to regulate AI and the different liability levels for the physician regarding diagnosis.

## **FSMB REQUEST COMMENTS ON DRAFT POLICY DOCUMENTS**

The deadline to submit comments to the FSMB is February 16, 2024. The Board has no comments currently.

## **DESIGNATION OF THE METHOD BY WHICH THIS BODY WILL GIVE PUBLIC NOTICE OF ITS MEETINGS**

Gadeken-Harris explained that the Board needs to inform the public each year the method by which the Board will provide notice of their meetings. In the past, the Board had chosen to post meeting agendas on the Bulletin Board at the Nebraska State Office Building, to e-mail agendas to the interested parties list, and to post agendas on the Department's website. Goodman moved, seconded by Hedrick, to continue the same method that the Department has been using to provide public notice of this Board's meetings by posting meeting agendas at the Nebraska State Office Building, by e-mailing agendas to the interested parties list, and by posting agendas on the Department's website. Voting aye: Blake, Goodman, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: None. Motion carried.

## **ELECTION OF OFFICERS**

Hedrick moved, seconded by Massey to elect new officers for 2024 as follows:

Chairperson: Rachel A. Blake, MD

Vice-Chairperson: Adam Kuenning, JD, LLM

Secretary: Wesley Zeger, DO

Voting aye: Blake, Goodman, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: None. Motion carried.

## **BOARD MEETING SCHEDULE**

The next meeting is scheduled for March 8, 2024, in the Husker Conference Room at the Hampton Inn & Suites. To see a complete list of the projected schedule for the 2024 schedule, visit the DHHS website:

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

Board Break: 12:04 p.m.

Board Returned: 1:01 p.m.

## **HEARING – OPEN SESSION**

Jason Christopher Clark, MD and his Attorney, Paul Lembrick of Berry Law Firm requested a hearing before the Board regarding Dr. Clark's application for removal of the limitation on his license.

Kuenning moved, seconded by Howorth to go into Closed Session at 2:25 p.m. for discussion of the evidence that was presented at the hearing. Voting aye: Blake, Goodman, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: None. Motion carried.

The Board returned to Open Session at 2:47 p.m.

Kuenning moved, seconded by Hedrick to approve the removal of the limitation on Dr. Clark's license. Voting aye: Blake, Goodman, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Keegan and Zeger. Abstain: None. Motion carried.

**ADJOURNMENT**

There being no further business, Blake, Vice-Chairperson adjourned the meeting at 2:50 p.m.

Respectfully submitted,

\*signature available upon request\*

Adam Kuenning, JD, LLM, Secretary  
Board of Medicine and Surgery