

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

### **MEETING MINUTES**

**May 1, 2020**

#### **ROLL CALL**

The meeting of the Board of Medicine and Surgery was called to order by Chairperson, John R. Massey, MD, at 9:07 a.m. on May 1, 2020, in the LU 3 Conference Room at the NE State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The meeting was conducted by WebEx. The following members answered the roll call:

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

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; Mark Meyerson, Kathleen Krueger, Carla Cue and Jeff Newman, Investigators with the Investigation Unit and Anna Harrison, Compliance Monitor, from Licensing and Investigations.

Dr. Massey 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.

#### **REVIEW OF AGENDA**

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

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

The Board requested that the following applications be removed from the consent agenda:

Counce, Charles, DO – Initial Application

Hinners Tiojanco, Cheryl, MD – Physician Reinstatement after Discipline Requesting Early Release from Probation application

Hedrick moved, seconded by Michaelis to approve adoption of the consent agenda. Voting aye: Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: None. Abstain: None. Motion carried.

#### **2020 LEGISLATION UPDATES**

Amy Reynoldson, Executive Vice President and Dexter Schrodtt, JD, VP Advocacy & Regulation, In-House Counsel with the NMA (Nebraska Medical Association) were present to discuss the 106th Legislature, 2nd Session and to provide updates on several of the legislative bills.

The 106th Legislature, 2nd Session, is not in session.

Check the calendar to see legislative activity.

The Legislature is adjourned until the speaker calls.

In light of growing public safety concerns regarding the coronavirus pandemic, the 2020 legislative session and all public hearings have been suspended until further notice. Session will remain adjourned until the situation has stabilized and the Speaker of the Legislature deems it safe to reconvene.

During this pause in the legislative session, senators and their offices continue their work. The health, safety and well-being of all of our neighbors are the top priorities.

Updates will be announced as they become available.

The following is a list of some of the legislative bills that are being followed by the Medicine and Surgery Board:

LB772 - Change the scope of practice for physician assistants

Current Status: Notice of Hearing for January 24, 2020

To learn more about LB772, please visit:

<https://www.nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB772.pdf>

LB783 - Change the definition of ambulatory surgical center

Current Status: Notice of hearing for February 20, 2020, Priority bill by Lowe

To learn more about LB783, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB783.pdf>

LB817- Adopt the Prescribing Psychologist Practice Act

Current Status: AM2416 filed on February 12, 2020

To learn more about LB817, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB817.pdf>

LB828 - Change provisions relating to the scope of practice of a licensed optometrist

Current Status: Notice of hearing for January 23, 2020

To learn more about LB828, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB828.pdf>

LB838 - Provide an exemption from licensure under the Medicine and Surgery Practice Act

Current Status: Notice of hearing for February 26, 2020

To learn more about LB838, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB838.pdf>

LB886 - Prohibit certain acts by health insurers and network providers and list a deceptive trade practice

Current Status: Placed on General File with AM2276 and BCI filed AM2276 on February 13, 2020

To learn more about LB886, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB886.pdf>

LB887 - Authorize pharmacists to adapt prescriptions to aid consumers

Current Status: Notice of hearing for January 30, 2020

To learn more about LB887, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB887.pdf>

LB922 - Require electronic issuance of prescriptions for controlled substances as prescribed

Current Status: Notice of hearing for January 30, 2020

To learn more about LB922, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB922.pdf>

LB946 - Change the sales tax rate and impose sales tax on additional services

Current Status: Notice of hearing for February 26, 2020

To learn more about LB946, please visit:

<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB946.pdf>

LB949 - Limit the amount an insured individual pays for prescription insulin drugs  
Current Status: AM2292 filed February 10, 2020  
To learn more about LB949, please visit:  
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB949.pdf>

LB970 - Limit the amount an insured individual pays for prescription insulin drugs  
Current Status: Notice of hearing for February 18, 2020  
To learn more about LB970, please visit:  
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB970.pdf>

LB997 - Adopt the Out-of-Network Emergency Medical Care Act  
Current Status: February 18, 2020 - Placed on General File with AM2431 and BCI filed AM2431;  
February 20, 2020 - BCI adopted AM2431 and Advanced to Initial Enrollment & Review; February 21,  
2020 – Placed on Select File with ER173 and Enrollment & Review ER173 filed.  
To learn more about LB997, please visit:  
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB997.pdf>

LB1011 - Require certain hospitals to accept reimbursement from the Medicare program  
Current Status: Notice of hearing for February 20, 2020  
To learn more about LB783, please visit:  
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB1011.pdf>

LB1036 - Allow persons eighteen years of age to make health care decisions and persons under nineteen years  
of age in correctional facilities to consent to medical and mental health care  
Current Status: Notice of hearing for January 31, 2020  
To learn more about LB1036, please visit:  
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB1036.pdf>

LB1058 - Adopt the Population Health Information Act  
Current Status: Notice of hearing for February 13, 2020  
To learn more about LB1058, please visit:  
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB1058.pdf>

LB1065 - Change provisions regarding pharmacies, pharmacists, and pharmacy personnel  
Current Status: Notice of hearing for February 27, 2020  
To learn more about LB1058, please visit:  
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB1065.pdf>

LB1133 - Increase caps on medical malpractice liability  
Current Status: Notice of hearing for February 19, 2020  
To learn more about LB1133, please visit:  
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB1133.pdf>

## **REGULATIONS UPDATE**

No updates at this time.

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

Goodman moved, seconded by Michaelis to approve the minutes for February 21, 2020 as presented. Voting aye: Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: None. Abstain: None. Motion carried.

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

Howorth moved, seconded by Keegan, to go into closed session at 9:30 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: Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Massey recused himself from the meeting at 9:39 a.m.  
Massey returned to the meeting at 9:42 a.m.

Massey recused himself from the meeting at 10:00 a.m.  
Massey returned to the meeting at 10:13 a.m.

Keegan recused himself from the meeting at 10:00 a.m.  
Keegan returned to the meeting at 10:13 a.m.

Goodman recused himself from the meeting at 10:19 a.m.  
Goodman returned to the meeting at 10:28 a.m.

Stull moved, seconded by Michaelis, to open the session at 10:58 a.m. Voting aye: Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: None. Abstain: None. Motion carried.

## **APPLICATION REVIEW – OPEN SESSION**

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

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

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

**COUNCE, CHARLES, DO** - application for a license to practice medicine and surgery. Keegan moved, seconded by Hedrick, to recommend denial of a license. Denial was based on past discipline in other states. Voting aye: Goodman, Hedrick, Keegan, Massey, Michaelis and Stull. Voting nay: None. Absent: Howorth. Abstain: Kuenning. Motion carried.

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

**HINNERS TIOJANCO, CHERYL, MD** - application for a reinstatement after discipline, requesting early release from probation license to practice medicine and surgery. Goodman moved, seconded by Michaelis, to recommend denial of a reinstatement after discipline, requesting early release from probation license to practice medicine and surgery. Denial was based on insignificant evidence to change the original probationary period. Voting aye: Goodman, Hedrick, Keegan, Massey, Michaelis and Stull. Voting nay: None. Absent: Howorth. Abstain: Kuenning. Motion carried.

## **EMAIL BALLOTS SINCE LAST MEETING**

Since their last meeting, the Board voted via e-mail ballots:

Behavioral Health Education Center of NE (BHECN) requested approval of the conference “Evidence-Based Interventions for Substance Use Disorder” to qualify for CE credits. The Board voted to approve the conference on March 5, 2020.

**CORTI, SANDRO, MD** – application for a license to practice medicine and surgery. The Board voted for approval of the issuance of the license on April 15, 2020.

**MEZA, YENNEY, MD** – application for a license to practice medicine and surgery. The Board voted for approval of the issuance of the license on April 15, 2020.

HEIN, MICHAEL, MD – application for a reinstatement of his license to practice medicine and surgery. The Board voted for approval. The license was reinstated by the Executive Order No. 20-10 on April 15, 2020.

MARTIN, J. TYLER, MD – application for a reinstatement of his license to practice medicine and surgery. The Board voted for approval. The license was reinstated by the Executive Order No. 20-10 on April 15, 2020.

## **PHARMACEUTICAL CARE AGREEMENT(S) (5) – CONSENT**

### **FYI (S)**

#### A. FSMB UPDATE on USMLE TESTING:

The Federation of State Medical Boards (FSMB) and the National Board of Medical Examiners (NBME) co-sponsors of the United States Medical Licensing Examination (USMLE) announced the following upcoming policy changes to the USMLE program:

- Changing Step 1 score reporting from a three-digit numeric score to reporting only pass/fail;
- Reducing the allowable number of exam attempts on each Step or Step Component from six to four; and
- Requiring all examinees to successfully pass Step 1 as a prerequisite for taking Step 2 Clinical Skills.

To learn more about the USMLE changes and the implementation dates visit: <https://www.usmle.org/>

#### B. FSMB UPDATES:

The 2020 Annual Meeting April 30-May 2, 2020 at the Manchester Grand Hyatt in San Diego, CA was cancelled due to the COVID-19 pandemic.

## **COVID-19 DISCUSSION**

The State of Nebraska, Governor's office has issued Executive Order No.20-10 (EO), effective March 27, 2020.

Visit the DHHS website to learn more about COVID-19, the EO, frequently asked questions (FAQ's) related to the EO, the State's Directed Health Measures and County Directed Health Measures.

<http://dhhs.ne.gov/Pages/default.aspx>

<http://dhhs.ne.gov/Pages/COVID-19-Directed-Health-Measures.aspx>

It's the opinion of the Board of Medicine and Surgery that questions regarding medication and treatment issues be directed to the Board of Public Health and to the Local County Health Departments.

Goodman moved, seconded by Hedrick that the opinion and statement of the Board of Medicine and Surgery, at the time of this pandemic, is that physicians have the responsibility to treat patients in an ethical fashion and to understand their role is to help take care of the greater population of the state of Nebraska as a whole, as well as individual patients. The Board supports the role of Public Health and their actions in making determinations of appropriate actions going forward. Voting aye: Goodman, Hedrick, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: Howorth. Abstain: None. Motion carried.

It's also the opinion of the Board, as individuals we need to be aware of the CDC's "Guidelines for Opening Up America Again", a three phased approach based on the advice of public health experts. These steps will help state and local officials when reopening their economies, getting people back to work, and continuing to protect American lives. Learn more at: <https://www.whitehouse.gov/openingamerica/>

**ADJOURNMENT**

There being no further business, Goodman moved, seconded by Stull to adjourn the meeting at 11:25 a.m.  
Voting aye: Goodman, Hedrick, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent:  
Howorth. Abstain: None. Motion carried.

Respectfully submitted,

\*signature available upon request\*

Jodanne Hedrick, DO, Secretary  
Board of Medicine and Surgery