

NEBRASKA BOARD OF MEDICINE AND SURGERY

MEETING MINUTES

May 29, 2020

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Chairperson, John R. Massey, MD, at 9:09 a.m. on May 29, 2020, in the LU 1 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
Todd Stull, MD
Brian Keegan, MD
Jeffrey Howorth
Adam Kuenning

Absent: Mark Goodman, MD

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

Additions, Modification, Reordering

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

Carthel, Jason, PA – Initial Application

Burton, Reginald, MD – Physician Reinstatement after Suspension application

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

2020 LEGISLATION UPDATES

Amy Reynoldson, Executive Vice President and Dexter Schrodt, 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.

Due to public safety concerns regarding the coronavirus pandemic, the 2020 legislative session is suspended until July 20, 2020.

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.

Teleconference confirmation hearings for several gubernatorial appointees were held by the Health and Human Services Committee May 27 and 29, 2020. Public testimony regarding the appointments will be allowed at a later date, to be announced.

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

Howorth moved, seconded by Stull to approve the minutes for May 1, 2020 as presented. Voting aye: Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: Goodman. Abstain: None. Motion carried.

INVESTIGATIONAL REPORTS, DISCIPLINARY REPORTS, APPLICATION REVIEW – CLOSED SESSION

Howorth moved, seconded by Hedrick, to go into closed session at 9:18 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: Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: Goodman. Abstain: None. Motion carried.

Keegan recused himself from the meeting at 10:06 a.m.
Keegan returned to the meeting at 10:24 a.m.

Kuenning recused himself from the meeting at 10:24 a.m.
Kuenning returned to the meeting at 10:25 a.m.

Board Break 10:57 a.m.
Board Reconvened 11:13 a.m.

Michaelis moved, seconded by Howorth, to open the session at 11:49 a.m. Voting aye: Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: Goodman. Abstain: None. Motion carried.

APPLICATION REVIEW – OPEN SESSION

BOARD RECOMMENDATIONS ON APPLICATIONS FOR LICENSURE AND REGISTRATION

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

Physician Assistant Initial Application(s) (1)

CARTHEL, JASON, PA - application for a license to practice medicine and surgery as a Physician Assistant. Keegan moved, seconded by Hedrick, to table a recommendation for additional information. Voting aye: Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: Goodman. Abstain: None. Motion carried.

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

BURTON, REGINALD, MD - application for a reinstatement after suspension, requesting to practice medicine and surgery. Howorth moved, seconded by Michaelis, to recommend denial of a reinstatement after suspension to practice medicine and surgery. Denial was based on insufficient evidence to prove the practice of medicine and surgery safely for the public. Voting aye: Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: Goodman. Abstain: None. Motion carried.

EMAIL BALLOTS SINCE LAST MEETING

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

WEST, BRIANNE, TEMPORARY PERFUSIONIST – application for a renewal of the temporary perfusion license. The Board voted for approval of the renewal of the license on May 19, 2020.

PHARMACEUTICAL CARE AGREEMENT(S) (1) – CONSENT

COVID-19 DISCUSSION

The Board had nothing for discussion.

IMLC (INTERSTATE MEDICAL LICENSING COMPACT) UPDATES

Dr. Stull and Jess Cushman are on the Board of Commissioners for the IMLC, representing the Nebraska Board of Medicine and Surgery. Jesse has been named to the Technology Committee as the Chair. The Technology Committee is currently working on revisions for some of the rules and regulations for the IMLC. To learn more about the IMLC and to see the schedule for upcoming meetings visit the below website.

<https://www.imlcc.org/>

ADJOURNMENT

There being no further business, Howorth moved, seconded by Michaelis to adjourn the meeting at 12:01 p.m. Voting aye: Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: Goodman. Abstain: None. Motion carried.

Respectfully submitted,

signature available upon request

Jodanne Hedrick, DO, Secretary
Board of Medicine and Surgery