

NEBRASKA BOARD OF MEDICINE AND SURGERY

MEETING MINUTES

August 7, 2020

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Chairperson, John R. Massey, MD, at 9:05 a.m. on August 7, 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
Mark Goodman, 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; Suzanna Glover- Ettrich, Department Attorney; Mark Meyerson, Kathleen Krueger 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

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: 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:

Puente Espel, Jordi, MD – Initial Application

Goodman moved, seconded by Howorth 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

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

The 106th Legislature, 2nd Session, is back in session as of July 20, 2020 following the break due to COVID-19.

Dexter noted that LB838 and LB1104 rolled into LB783 and were presented to the Governor on August 4, 2020. To see updates on LB783 visit: https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=41017

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: presented to the Governor on August 4, 2020
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 (rolled into LB783 and sent to Governor 8/4/2020)
To learn more about LB838, please visit:
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB838.pdf>
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Slip/LB783.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: Approved by Governor on July 24, 2020 – Slip Law
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 LB1011, 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 LB1065, please visit:
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB1065.pdf>

LB1104 - Redefine a term under the Health Care Quality Improvement Act
Current Status: rolled into LB783 and sent to the Governor August 4, 2020
To learn more about LB1104, please visit:
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB1104.pdf>
<https://nebraskalegislature.gov/FloorDocs/106/PDF/Slip/LB783.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 Public Hearings have been scheduled at this time for Title 172 Chapters 89, 90, 91 or 92.

For updates on the schedule for Public Hearing Notices for Draft Regulations, please visit the Secretary of State website link listed below:

<https://www.nebraska.gov/nesos/rules-and-regs/regtrack/index.cgi>

APPROVAL OF MINUTES OF THE MEETING

Hedrick moved, seconded by Howorth to approve the minutes for June 26, 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 9:25 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.

Goodman moved, seconded by Hedrick, to open the session at 11:03 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) (5) – CONSENT

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

PUENTE ESPEL, JORDI, MD – application for a license to practice medicine and surgery. Hedrick moved, seconded by Stull, to recommend issuance of a license. Voting aye: Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: None. Abstain: None. Motion carried.

PHARMACEUTICAL CARE AGREEMENT(S) (14) – CONSENT

BOARD DISCUSSION

Currently there are only three Assistant Attorney Generals assigned to all of the Medical and Specialized Health Boards and the caseload is extremely high. Goodman moved, seconded by Hedrick to support the request by the Attorney General's office to solicit the Nebraska Legislature to acquire a fourth Assistant Attorney General. Voting aye: Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: None. Abstain: None. Motion carried.

COVID-19 DISCUSSION(s)

The State of Nebraska, Governor's office has issued Executive Orders No.20-10 (EO), effective March 27, 2020 and EO No.20-27, effective June17, 2020.

Visit the DHHS website to see listed updates regarding COVID-19, the EO's, frequently asked questions (FAQ's) related to the EO's and the FAQ's related to the Continuing Competency Waiver, 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>

Michaelis moved, seconded by Keegan that the Board of Medicine and Surgery feels it's the ethical and professional duty of medical providers and their staff to wear masks and follow the CDC guidelines at Health Care settings to protect patients, staff and public visitors and prevent the spread of COVID-19 as recommended by the CDC and in current medical literature. Voting aye: Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: None. Abstain: None. Motion carried.

The AAOE (American Association of Osteopathic Examiners) are asking for flexibility in postgraduate trainee license requirements and timelines in response to COVID-19. The Governor and the Department have addressed the deferral of exam results in the EO's and the FAQ's.

The Board members are asking when in-person meetings will be able to resume. Jesse Cushman will consult with the Department administration for advice.

ADJOURNMENT

There being no further business, Goodman moved, seconded by Hedrick to adjourn the meeting at 11:15 a.m. Voting aye: Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey, Michaelis and Stull. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Respectfully submitted,

signature available upon request

Jodanne Hedrick, DO, Secretary
Board of Medicine and Surgery