

NEBRASKA BOARD OF MEDICINE AND SURGERY

MEETING MINUTES

January 29, 2021

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Chairperson, John Massey, MD, at 9:08 a.m. on January 29, 2021, at the Staybridge Suites, 2701 Fletcher Ave, Lincoln, Nebraska 68504. The meeting was conducted In-Person and 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
Brian Keegan, MD
Jeffrey Howorth
Adam Kuenning
Rachel Blake, MD

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.

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 15, 2021 with revisions posted on January 26, 2021.

REVIEW OF AGENDA

Goodman 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, Keegan, Kuenning, Massey and Michaelis. 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:
Kouri, Jason, MD, Initial Licensure Application

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

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

2021 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 and provide updates on several of the 2021 legislative bills that have been introduced for the 107th Legislature, 1st Session. Below are some of the legislative bills that the Board will be following:

- a. NMA Legislation
 - i. [LB 413](#) (Wishart) – Medicaid coverage of substance use disorder treatment
 - ii. [LB 447](#) (M. Cavanaugh) – Child care center immunizations
- b. COVID-19 Liability
 - i. [LB 52](#) (Lathrop) – Immunity for injury or death resulting from COVID-19 exposure
 - ii. [LB 53](#) (Lathrop) – Immunity under a Crisis Standards of Care Plan
 - iii. [LB 139](#) (Brises) – Immunity during COVID-19 pandemic
- c. Telehealth
 - i. [LB 314](#) (Pahls) – Telehealth payment parity
 - ii. [LB 400](#) (Arch) – Telehealth regulatory updates
 - iii. [LB 487](#) (Arch) – Telehealth payment parity for behavioral health only
- d. Scope of Practice
 - i. [LB 392](#) (Stinner) – Psychologist prescribing
 - ii. [LB 436](#) (B. Hansen) – Athletic Trainer 407
- e. Mandates
 - i. [LB 86](#) (Bostelman) – Require all dispensers and prescribers to register for PDMP
 - ii. [LB 411](#) (Lathrop) – Requires health care facilities to participate in the HIE
 - iii. [LB 416](#) (M. Cavanaugh) – Requires annual implicit bias training
 - iv. [LB 583](#) (Murman) – Requires e-prescribe of controlled substances and transmission to PDMP
- f. Licensing
 - i. [LB 263](#) (Briese) – Requires licensure reciprocity
 - ii. [LB 390](#) (Murman) – Creates “expedited” licensure for health professionals
- g. Miscellaneous
 - i. [LB 160](#) (Wayne) – Increase limits of the Excess Liability Fund
 - ii. [LB 270](#) (Morfeld) – PBM regulation
 - iii. [LB 375](#) (Kolterman) – PBM regulation
 - iv. [LB 337](#) (Kolterman) – Step therapy reform
 - v. [LB 581](#) (B. Hansen) – Motorcycle helmet repeal
 - vi. [LB 643](#) (B. Hansen) – Vaccine refusal
 - vii. [LB 637](#) (Vargas) – Directed health measure authority
 - viii. [LR 27 CA](#) (M. Hansen) – Legislature convene during a pandemic
- h. Marijuana
 - i. [LB 474](#) (Wishart) – Medicinal Cannabis Act
 - ii. [LB 546](#) (Wayne) – Marijuana Control Act and Marijuana Conviction Clean Slate Act
 - iii. [LR 2 CA](#) (Wayne) – Constitutional amendment to legalize recreational marijuana

REGULATIONS UPDATE

Proposed draft regulations for Title 172 Chapter 89 – Practice of Acupuncture. Blake moved, seconded by Hedrick, to approve the draft regulations. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Proposed draft regulations for Title 172 Chapter 91 – Licensure of Perfusionists. Howorth moved, seconded by Hedrick, to approve the draft regulations. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Proposed draft regulations for Title 172 Chapter 92 – Licensure of Genetic Counselors. Howorth moved, seconded by Hedrick, to approve the draft regulations. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

APPROVAL OF MINUTES OF THE MEETING

Goodman moved, seconded by Howorth to approve the minutes for December 4, 2020 as presented. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

INVESTIGATIONAL REPORTS, DISCIPLINARY REPORTS, APPLICATION REVIEW – CLOSED SESSION

Goodman moved, seconded by Hedrick, to go into closed session at 10:05 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, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Howorth moved, seconded by Hedrick, to open the session at 10:45 a.m. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

Board Break: 10:45 a.m.
Board Reconvened: 11:00 a.m.

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)

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

Physician and Osteopathic Physician Reinstatement Application(s) (2) - CONSENT

Surgical First Assistant Initial Application(s) (1) – CONSENT

PHARMACEUTICAL CARE AGREEMENT(S) (26) – CONSENT

BOARD DISCUSSION(S)

A. USMLE Step 2 Clinical Skills (CS)

On January 26, 2021 the Federation of State Medical Boards (FSMB) reported the following in the FSMB eNEWS publication:

The FSMB and the National Board of Medical Examiners (NBME) ***announced the discontinuation of the Step 2 Clinical Skills (CS) component of the examination.*** *Executive directors of state medical boards were informed earlier today. The decision, made by the board of directors of both organizations, follows a careful review of the extensive work that has been done towards creating a modified format of the Step 2 CS that could be deliverable in the months ahead. While progress was achieved, changes in medical education, advances in assessment and disruptions in technology during the pandemic have opened up new possibilities.*

Elements of communication skills and patient care continue to be assessed on Steps 1, 2 CK (Clinical Knowledge) and 3. Computer case simulations on Step 3 and communication content recently bolstered on Step 1 are also examples of efforts that will continue. We look forward in the months ahead to work with state medical boards and the medical education community to determine the best path forward. The ECFMG will continue to oversee requirements for its certification of international medical graduates and has expanded pathways to allow qualified IMGs to continue to pursue graduate medical education in the United States.

UNMC Medical Students Olivia Sonderman and Rohan Khazanchi presented their research to the Board regarding the discontinuance of the USMLE Step 2 CS and the National Board of Osteopathic Medical Examiners (NBOME) COMLEX Level 2 Performance Evaluation (PE). The NBOME has announced plans to provide access to Level 2 PE again in April 2021.

Goodman moved and seconded by Blake for Sonderman and Khazanchi to draft a letter opposing COMLEX PE to send to the Interstate Medical Licensing Compact Commission (IMLCC) on behalf of the Nebraska Board of Medicine and Surgery. The draft letter to be presented to the Department and the Board for final approval. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

B. Review of Guidance Document – “Guidelines for the Use of Controlled Substances for the Treatment of Pain”

The Board decided to table this discussion to enable them to review and propose any updates to the current Guidance Document.

C. Interstate Medical Licensing Compact Commission (IMLCC)

1) Election of a New Commissioner to the Compact – The Compact has 32 State members and each State has two (2) Commissioners. Dr. Stull was one of the Nebraska Commissioners and with his resignation from the Board a new Commissioner is needed to fill the position. Jesse Cushman is currently the other Nebraska Commissioner. Hedrick moved and seconded by Blake for Dr. Michaelis to fill the position for the Nebraska Commissioner to the IMLCC. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

2) IMLCC requirements verse Nebraska State requirements – Nebraska requires that an applicant achieve a passing score on ALL the steps of the USMLE and the NBOME within four (4) attempts and all steps must be passed within ten years of passing the first examination. IMLCC only allows three (3) attempts for passing.

D. FSMB

1) The Nominating Committee of the FSMB currently has 6 openings at the National Level and is encouraging consideration of service – Dr. Massey and Dr. Michaelis are currently serving on Committees.

Please visit this link to learn more about the process: <https://www.fsmb.org/about-fsmb/become-a-leader/>

2) FSMB 2021 Annual Meeting will be held VIRTUALLY. FSMB will share more information as it becomes available. If you have any questions, please contact Kelly Alfred, MS, FSMB Director of Education Services, at kalfred@fsmb.org.

E. Practice Question - Can a Pediatrician perform a circumcision in their private physician offices?
After literature review and research the Board’s opinion is that a circumcision can be performed by a Pediatrician in their private physician office.

COVID-19 DISCUSSION(s)

Good News, the Physician members of the Board have all received their vaccinations for COVID-19.

Dr. Goodman noted that the Influenza A and B positivity rate this flu season is almost nonexistent. This perhaps is due to the public cooperation of wearing masks and social distancing.

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. Michaelis 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, Keegan, Kuenning, Massey and Michaelis. Voting nay: None. Absent: None. Abstain: None. Motion carried.

ELECTION OF OFFICERS

Goodman moved, seconded by Kuenning to elect new officers for 2021 as follows:

Chairperson: Maria Michaelis, MD

Vice-Chairperson: Jodanne W. Hedrick, DO

Secretary: Brian Keegan, MD

Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None.

Absent: None. Abstain: None. Motion carried.

BOARD MEETING SCHEDULE

The next Board of Medicine and Surgery meeting is scheduled for February 26, 2021. To see a complete list of the 2021 projected schedule visit the DHHS website:

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

ADJOURNMENT

There being no further business, Michaelis moved, seconded by Hedrick to adjourn the meeting at 11:40 a.m. .

Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan, Kuenning, Massey and Michaelis. Voting nay: None.

Absent: None. Abstain: None. Motion carried.

Respectfully submitted,

signature available upon request

Jodanne Hedrick, DO, Secretary
Board of Medicine and Surgery