

NEBRASKA BOARD OF MEDICINE AND SURGERY

MEETING MINUTES

March 24, 2023

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Vice-Chairperson, Rachel Blake, MD, at 9:07 a.m. on March 24, 2023, 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
John Massey, MD
Maria Michaelis, MD

Absent: Brian Keegan, MD, Chairperson
Jeffrey Howorth

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, with the Licensure Unit; T. J. O'Neill, Assistant Attorney General and Jeanne Burke, Assistant Attorney General; Brittany Bigham, Kathleen Krueger, Mendy Mahar-Clark 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 via WebEx.

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 March 14, 2023.

REVIEW OF AGENDA

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

Additions, Modification, Reordering

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

Cunningham, Laurence William, DO – Initial Application
Tang, Zhenya, MBBS – Initial Application
Hughes, Keith Patrick, MD – Reinstatement after Discipline Application
Moseman, Lynnette, MD – Reinstatement after Discipline Application

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

2023 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.

- LB16 Require occupational boards to issue certain credentials based on credentials or work experience in another jurisdiction and make a determination regarding an applicant with a criminal conviction, provide for jurisprudential examinations and appeals from denial of a license, and change requirements for membership of the State Electrical Board
Referred to Government, Military and Veterans Affairs Committee
The NMA opposes this bill as written
Hearing held February 9, 2023
Placed on General File with AM748
To learn more about LB16 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB16.pdf>
- LB68 Increase limits on medical malpractice liability and change provisions of the Nebraska Hospital-Medical Liability Act
Referred to Banking, Commerce and Insurance Committee
The NMA supports this bill
Hearing held January 30, 2023
Amendments adopted February 16, 2023
To learn more about LB68 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB68.pdf>
- LB181 Provide for filling and refilling prescriptions in certain circumstances
Referred to Health and Human Services Committee
The NMA opposes this bill as written
The Board of Medicine and Surgery submitted a letter in opposition to LB181 to the Legislature
Hearing held February 1, 2023
Amendment filed March 23, 2023
To learn more about LB181 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB181.pdf>
- LB286 Provide for confidentiality of a physician wellness program under the Uniform Credentialing Act
Referred to Health and Human Services Committee
The NMA supports this bill as written
Hearing held February 9, 2023
To learn more about LB286 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB286.pdf>
- LB351 Increase and eliminate limits on medical malpractice liability and change provisions relating to proof of financial responsibility and the Excess Liability Fund
Referred to Judiciary Committee
The NMA opposes this bill as written
Hearing Scheduled for February 24, 2023
To learn more about LB351 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB351.pdf>
- LB422 Exempt certain activities from disciplinary action under the Uniform Credentialing Act
Referred to Health and Human Services Committee
The NMA opposes this bill as written
Hearing Held February 16, 2023
Amendment filed February 23, 2023
To learn more about LB422 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB422.pdf>
- LB574 Adopt the Let Them Grow Act
Referred to Health and Human Services Committee
The NMA opposes this bill as written
Amendments filed January 25, 2023 and February 7, 2023
Hearing held February 8, 2023
There has been a lot of activity on this bill
To learn more about LB574 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB574.pdf>

LB626 Adopt the Nebraska Heartbeat Act
Referred to Health and Human Services Committee
The NMA opposes this bill as written
Multiple Amendments filed
To learn more about LB422 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB626.pdf>

LB810 Adopt the Medical Ethics and Diversity Act
Referred to Health and Human Services Committee
Hearing February 10, 2023
Multiple Amendments filed
To learn more about LB810 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB810.pdf>

REGULATIONS UPDATE

There were no updates on Regulations currently.

BOARD DISCUSSION on TITLE PROTECTION

Amy Reynoldson and Paul Henderson with the NMA also joined the Board on this discussion.

It is vitally important that there is transparency for the public at large to know and understand who will be involved with their healthcare.

In Nebraska when a healthcare professional identifies themselves as a “Doctor” if they are not a “Physician” (only licensed Medical Doctors or Doctor of Osteopathic Medicine are able to use the title of “Physician”) then they need to further identify themselves to the public/patient. For example, that they are a “Doctor of Podiatric Medicine” or “Doctor of Dental Surgery” or “Doctor of Nursing Practice”, etc.

The differences between various types of health care providers can be confusing. It is not appropriate to have confusing or misleading health care advertising or marketing materials that have the potential to put the safety of the public/patient at risk.

Amy shared with the Board the AMA (American Medical Association) “Truth in Advertising” campaign and the results of their surveys. The survey identified that:

- 1) Patients are not sure who is - and who is not - a physician
- 2) Patients strongly prefer physicians to lead the health care team
- 3) Patients want their health care professional to clearly designate their education and training

To find out more on the AMA campaign and the survey results go to:
<https://www.ama-assn.org/system/files/2020-10/truth-in-advertising-campaign-booklet.pdf>

Amy also shared a helpful tool that is provided by the NMA to help understand the importance and value of each member of your healthcare team. It’s called “Who’s Practicing on You”. It’s a fun and informative tool where you can compare the educational and training requirements of different healthcare professionals. To try it out go to:
<https://www.whospracticingonyou.com/>

Nebraska Revised Statute 38-124 identifies the law for:
Credential holder's advertisement; contents; credential; availability and identity of profession or business.
<https://nebraskalegislature.gov/laws/statutes.php?statute=38-124>

Nebraska Revised Statute 38-178 identifies the law for:
Disciplinary actions and grounds.
<https://nebraskalegislature.gov/laws/statutes.php?statute=38-178>

APPROVAL OF MINUTES OF THE MEETING

Hedrick moved, seconded by Michaelis to approve the minutes for February 24, 2023, as presented. Voting aye: Blake, Goodman, Hedrick, Kuenning, Massey and Michaelis. Voting nay: None. Absent: Howorth and Keegan. Abstain: None. Motion carried.

INVESTIGATIONAL REPORTS, DISCIPLINARY REPORTS, APPLICATION REVIEW – CLOSED SESSION

Hedrick moved, seconded by Goodman, to go into closed session at 9:52 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, Kuenning, Massey and Michaelis. Voting nay: None. Absent: Howorth and Keegan. Abstain: None. Motion carried.

Goodman Recused himself at 10:07 a.m.
Goodman Returned at 10:12 a.m.

The Board members returned to Open Session at 11:42 a.m.

Board Break 11:42 a.m.
Board Reconvened 11:45 a.m.

APPLICATION REVIEW – OPEN SESSION

BOARD RECOMMENDATIONS ON APPLICATIONS FOR LICENSURE AND REGISTRATION

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

CUNNINGHAM, LAURENCE WILLIAM, DO – application for Initial license to practice medicine and surgery. Kuenning moved, seconded by Michaelis, to recommend approval of the application to practice medicine and surgery. Voting aye: Blake, Goodman, Hedrick, Kuenning, Massey and Michaelis. Voting nay: None. Absent: Howorth and Keegan. Abstain: None. Motion carried.

TANG, ZHENYA, MBBS - application for Initial license to practice medicine and surgery. Kuenning moved, seconded by Goodman, to recommend approval of the application to practice medicine and surgery. Voting aye: Blake, Goodman, Hedrick, Kuenning, Massey and Michaelis. Voting nay: None. Absent: Howorth and Keegan. Abstain: None. Motion carried.

Physician and Osteopathic Physician Reinstatement after Discipline Application(s) (2)

HUGHES, KEITH PATRICK, MD - application for Reinstatement after Revocation of license to practice medicine and surgery. Kuenning moved, seconded by Goodman, to recommend approval of the reinstatement application to practice medicine and surgery, with a (5) five-year probation period. Basis for the probationary period are prior disciplinary action and conviction history. Voting aye: Blake, Goodman, Hedrick, Kuenning, Massey and Michaelis. Voting nay: None. Absent: Howorth and Keegan. Abstain: None. Motion carried.

MOSEMAN, LYNNETTE, MD - application for Reinstatement after Suspension of license to practice medicine and surgery. Kuenning moved, seconded by Michaelis, to recommend approval of the reinstatement application to practice medicine and surgery, with a (3) three-year probation period. Basis for the probationary period is prior disciplinary action. Voting aye: Blake, Goodman, Hedrick, Kuenning, Massey and Michaelis. Voting nay: None. Absent: Howorth and Keegan. Abstain: None. Motion carried.

BOARD MEETING SCHEDULE

The next meeting is scheduled for April 21, 2023, in the Husker Conference Room at the Hampton Inn & Suites. To see a complete list of the projected schedule, visit the DHHS website:

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

ADJOURNMENT

There being no further business, Blake, Vice-Chairperson adjourned the meeting at 11:50 a.m.

Respectfully submitted,

signature available upon request

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