

NEBRASKA BOARD OF MEDICINE AND SURGERY

MEETING MINUTES

April 21, 2023

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Chairperson, Brian Keegan, MD, at 9:07 a.m. on April 21, 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:

Brian Keegan, MD, Chairperson
Rachel Blake, MD, Vice-Chairperson
Mark Goodman, MD
Jodanne Hedrick, DO
Jeffrey Howorth
Maria Michaelis, MD

Absent: Adam Kuenning, JD, LLM, Secretary
John Massey, MD

A quorum was present, and the meeting convened.

Also present to participate in the meeting: Jesse Cushman, Program Manager, Jan Gadeken-Harris, Health Licensing Coordinator, with the Licensure Unit; Mindy Lester, Assistant Attorney General and Jeanne Burke, Assistant Attorney General; Kathleen Krueger, Trevor Klaassen and Mark Meyerson, Investigators with the Investigation Unit; Suzanna Glover-Ettrich, Department Attorney via WebEx and Anna Harrison, DHHS Compliance Monitor for Licensing and Investigations via WebEx.

Dr. Keegan 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 April 7, 2023.

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: Blake, Goodman, Hedrick, Howorth, Keegan and Michaelis. Voting nay: None. Absent: Kuenning and Massey. Abstain: None. Motion carried.

Additions, Modification, Reordering

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

Agolia, Lindsay, MD – Initial Application
Boren, David, MD – Initial Application
Halawa, Ahmad, MD – Initial Application
Johnson, Rajitha, MBBS – Requesting Early Release from Reentry Program
Ward, Richard, MD – Reinstatement after Discipline Application

2023 LEGISLATION UPDATES

- 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
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

Jesse presented the Board with the proposed changes to Regulations 172 Chapter 88, Licensure of Medicine and Surgery and Osteopathic Medicine and Surgery.

Goodman moved, seconded by Hedrick to accept the proposed draft Regulations 172 Chapter 88, Licensure of Medicine and Surgery and Osteopathic Medicine and Surgery as written. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan and Michaelis. Voting nay: None. Absent: Kuenning and Massey. Abstain: None. Motion carried.

NEW DEA OPIOID REQUIREMENTS FOR CME

The MATE Act (Medication Access and Training Expansion Act) becomes law. Therefore, the DEA (Drug Enforcement Administration) requires healthcare providers holding a federal DEA license to complete eight (8) hours of education on opioid treatment.

Anyone other than a veterinarian who holds a DEA license, including physicians, dentists, chiropractors, podiatrists, nurse practitioners, and physician assistants, will be required to complete a one-time eight-hour course on the treatment and management of patients with opioid or other substance use disorders and the safe pharmacological management of pain.

Specifically, the law requires that if a prescriber is licensed to dispense controlled Substances in schedule II, III, IV, or V, that provider must undergo the eight-hour training course, effective the first applicable registration/renewal for the practitioner after June 21, 2023.

For more information on the specifics of the law and availability of courses see the links below:

<https://www.policymed.com/2023/01/mate-act-becomes-law-dea-prescriber-license-holders-required-to-complete-8-hours-of-education-on-opioid-treatment.html>

<https://www.deadiversion.usdoj.gov/pubs/docs/index.html>

<https://www.samhsa.gov/medications-substance-use-disorders/provider-support-services/recommendations-curricular-elements-substance-use-disorders-training>

APPROVAL OF MINUTES OF THE MEETING

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

INVESTIGATIONAL REPORTS, DISCIPLINARY REPORTS, APPLICATION REVIEW – CLOSED SESSION

Michaelis moved, seconded by Howorth, 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: Blake, Goodman, Hedrick, Howorth, Keegan and Michaelis. Voting nay: None. Absent: Kuenning and Massey. Abstain: None. Motion carried.

Goodman Recused himself at 10:03 a.m.
Goodman Returned at 10:07 a.m.

The Board members returned to Open Session at 11:50 a.m.

APPLICATION REVIEW – OPEN SESSION

BOARD RECOMMENDATIONS ON APPLICATIONS FOR LICENSURE AND REGISTRATION

Physician and Osteopathic Physician Initial Application(s) (3)

AGOLIA, LINDSAY, MD – application for Initial license to practice medicine and surgery. Hedrick moved, seconded by Howorth, to recommend approval of the application to practice medicine and surgery with limitation for no control substances prescribing authority. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan and Michaelis. Voting nay: None. Absent: Kuenning and Massey. Abstain: None. Motion carried.

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

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

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

JOHNSON, RAJITHA, MBBS - application to Request Early Release from the Reentry Program to practice medicine and surgery. Hedrick moved, seconded by Goodman, to recommend denial of the request for early release from the Reentry Program to practice medicine and surgery. Basis for the denial is NE Revised Statute 38-2026.01. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan and Michaelis. Voting nay: None. Absent: Kuenning and Massey. Abstain: None. Motion carried.

WARD, RICHARD, MD - application for Reinstatement after Probation of license to practice medicine and surgery. Goodman moved, seconded by Hedrick, to postpone a recommendation on the reinstatement application to practice medicine and surgery pending additional information. Voting aye: Blake, Goodman, Hedrick, Howorth, Keegan and Michaelis. Voting nay: None. Absent: Kuenning and Massey. Abstain: None. Motion carried.

BOARD MEETING SCHEDULE

The next meeting is scheduled for May 19, 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, Keegan, Chairperson adjourned the meeting at 11:54 a.m.

Respectfully submitted,

signature available upon request

Rachel Blake, MD, Vice-Chairperson
Board of Medicine and Surgery