

**STATE OF NORTH DAKOTA
BOARD OF MEDICAL EXAMINERS**

July 26, 2013

Call to order

Dr. Johnson called the meeting to order at 8:00 o'clock, a.m., at the board offices in Bismarck, North Dakota. Unless otherwise noted, the following members were present.

Investigative Panel A

Gaylord Kavlie, MD, Chair
Burt Riskedahl, Vice-Chair
Larry Johnson, MD
Robert Tanous, DO
Robert Olson, MD
Genevieve Goven, MD

Investigative Panel B

Norman Byers, MD, Chair
Kent Martin, MD, Vice-Chair
Cory Miller, MD
Kayleen Wardner
Kent Hoerauf, MD
Kate Larson, PA-C
Jonathan Haug, MD

Duane Houdek, executive secretary; Lynette McDonald, deputy executive secretary; Marijo DeMott, recording secretary; and Stacy Moldenhauer, counsel, were also present.

Minutes

Dr. Byers moved to approve the minutes of the March, 2013, meeting. Dr. Haug seconded the motion, which passed unanimously.

Nominating committee

Dr. Johnson and Dr. Martin were appointed to a nominating committee for new board members.

Physicians eligible for waiver of interview

After the board reviewed the list of physicians deemed eligible for waiver of a personal interview, Dr. Hoerauf moved to approve all physicians on the list. Dr. Goven seconded the motion, which passed unanimously.

Residents eligible for waiver of interview

After the board reviewed the list of residents deemed eligible for waiver of a personal interview, Dr. Kavlie moved to approve all residents on the list. Dr. Miller seconded the motion, which passed unanimously.

Panel A report

Dr. Kavlie, Chair of Panel A, reported that Panel A met July 25, 2013, and reviewed 14 cases. Eight cases were dismissed; two stipulations were approved; one case was referred for further review; one complaint was authorized; one interim stipulation prohibiting practice during the pendency of the case was approved; and one complaint was rescinded and dismissed.

Panel B report

Dr. Byers, Chair of Panel B, reported that Panel B met July 25, 2013, and reviewed 14 cases. Seven cases were dismissed; three stipulations were approved, one of which contained an interim non-practice provision; two cases were referred for further review; one complain was authorized and one letter of concern was authorized.

IPA vs. Katherine Klein, MD

The Board considered the stipulation executed to resolve the complaint against Dr. Klein, which was issued because she consumed alcohol and was under its influence when she saw a patient. Dr. Klein has since attended an inpatient treatment at Menninger. Panel A approved the stipulation, which provides for Dr. Klein's license to be suspended for one year, with that suspension stayed for two years provided she follows the Menninger recommendations, successfully participates in the PHP and pays costs of prosecution.

Dr. Haug moved to approve the stipulation. Ms. Larson seconded the motion, which passed unanimously, with members of Panel B voting.

IPA vs. Lois Freisleben-Cook

The board considered the stipulation executed to resolve the complaint against Dr. Freisleben-Cook. The board had received a number of patient complaints regarding the difficulty of obtaining medical records from Dr. Cook, as well as a complaint from a PA formerly in her employ. The board also received notification of a state vaccine audit, which found Dr. Cook improperly documented the disposition of free vaccine given her to be administered to certain eligible populations. The audit did not find fraud, as many mistakes were made that weighed against Dr. Cook, as were in her favor.

The stipulation provided Dr. Cook's license would be suspended for one year, with that suspension stayed for two years, on the conditions that she attend the PACE program in San

Diego and follow all recommendations, and pay the costs of prosecution.

Dr. Haug moved to approve the stipulation. Dr. Martin seconded the motion, which passed 7-0, with members of Panel B and Dr. Olson voting, who was not a member of Panel A when this complaint was issued. Dr. Miller abstained.

IPB vs. William Zaks, MD

The board considered the stipulation executed to resolve the complaint against Dr. Zaks, which was issued because of the prescribing of a large number of controlled substances to a patient without properly monitoring the prescriptions through the PDMP or the monitoring systems available in the facility where he practiced.

The stipulation calls for his license to prescribe controlled substances to be suspended for one year, with that suspension stayed for a period of two years, provided Dr. Zaks attends a prescribing course approved by the board within six months of the board's order; subjects himself to board monitoring of his prescribing through the PDMP, or any other review the board chooses to utilize; uses the PDMP guidelines established by the board, as one method of monitoring his prescribing practice, and pays the costs of prosecution.

Dr. Kavlie moved to approve the stipulation. Dr. Tanous seconded the motion, which passed unanimously, with members of Panel A voting.

IPB vs. Kurt Datz, DO

The board considered the stipulation executed to resolve the complaint against Dr. Datz. The complaint was brought because Dr. Datz closed a clinical practice and failed to provide medical records that would make continuity of care available to his former patients.

The stipulation provides that Dr. Datz's license will be suspended for one year, with that suspension stayed provided Dr. Datz provide proof of completion the documentation seminar provided at CPEP in Denver, Colorado; and pays the costs of prosecution.

Dr. Kavlie moved to approve the stipulation. Dr. Goven seconded the motion. The motion passed unanimously, with members of Panel A voting.

IPB vs. Paul Barber, MD

The board considered the stipulation executed to resolve the complaint against Dr. Barber, who was found to be drinking while on call, and who failed to inform the board of prior DUI's on his

license application.

The stipulation provides that Dr. Barber will submit to a complete psychological and substance abuse evaluation, approved by the board, and follow all recommendations from that evaluation. He also agrees he will not practice in the state pending that evaluation. Dr. Barber will pay for all costs of prosecution.

Dr. Kavlie moved to approve the stipulation. Mr. Riskedahl seconded the motion, which passed unanimously, with members of Panel A voting.

Pharmacy collaborative agreements

Dr. Byers reviewed two new agreements and one renewal and reported that all were in keeping with prior agreements approved by the board.

Dr. Byers moved the approval of the agreements. Dr. Martin seconded the motion, which passed unanimously.

Pharmacy collaborative agreement reviewer

Dr. Byers, who has reviewed all collaborative agreements for the board, has completed his two terms on the board and is not eligible for re-appointment.

Dr. Goven agreed to assume this responsibility, and Dr. Johnson appointed her to this position.

Special licenses

There was some discussion at the March meeting about a rule that would allow exceptional candidates under the visa criteria to be licensed without meeting our training requirements. Dr. Wijdicks and Dr. Leyland -Jones fall short either in training or in national licensure, but certainly meet the "exceptional" status described in the visa criteria.

In the discussion, Dr. Kavlie noted that our "special" language would include exceptional candidates who do not meet each of our specific licensing requirements. Dr. Martin suggest we develop comprehensive language with criteria to be considered, but leave the final decision to the board.

Dr. Haug moved to grant eligibility for a North Dakota license to Dr. Wijdicks and Dr. Leyland-Jones. Dr. Miller seconded the motion. The motion passed unanimously.

Election of officers

Dr. Kavlie moved to retain the current slate of officers. Dr. Olson seconded the motion, which

was approved unanimously. The officers for the coming year are Dr. Johnson, Chair; Dr. Tanous, Vice-Chair; and Ms. Larson, Treasurer.

Office matters

Duane reported that all rules passed by the board have been put in place, with the exception of increasing the number of allowable attempts at passage of USMLE components, which was withdrawn by the board, following public comment.

Burt and Duane continue to work on implementation of the separate PHP, meeting with health executives and the Dakota Medical Foundation to pursue funding. DMF committed to providing support for a sustainable funding source for the PHP. Dr. Barrie March continues to provide support for this effort, as well.

Duane reported that the State Investment Board has voted to accept the board as an eligible client if the board chooses to use them, and a report will be given to the board at the November meeting. The board asked to report on the difference in management costs of the SIB vs. our current brokers.

Unfinished business

Dr. Kavlie questioned whether the PHP changes suggested at the last meeting (dealing with monitoring modalities) were made, and Duane said they had been made.

The subcommittee appointed to review Dr. Norberg's petition to return to practice have received Dr. McLean's initial opinion and continue to work to bring the matter back to the board.

Dr. Johnson presented plaques from the Governor to Dr. Byers and Dr. Miller, who have each completed two four year terms on the board, and thanked them for their service to the citizens of North Dakota.

Dr. Byers and Dr. Miller each stated that it has been a meaningful experience to serve on the board and wished the board continued success in its service to the state.

The board offered their best wishes and congratulations to Dr. Johnson's 94 year old mother on her wedding, which was to occur later in the day in Fargo.

Adjournment

Dr. Johnson adjourned the meeting at 9:26 o'clock, a.m.