

NORTH DAKOTA BOARD OF MEDICINE

March 24, 2017

Call to Order:

Kate Larson, PA-C, vice chair, called the meeting to order at 8:03 a.m., at the Board office in Bismarck. The attendance was as follows:

Investigative Panel A:

Robert Olson, MD, Chair	Present
Rup Nagala, MD	Present
Thomas Carver, DO	Present
Genevieve Goven, MD	Present
Robert Sticca, MD	Present
Ann Reich	Present

Investigative Panel B:

Kate Larson, PA-C, Chair	Present
Brenda Miller, MD	Present
Kent Hoerauf, MD	Absent
William Haug, Jr., MD	Present
Manuel Colón, MD	Present
Sara Solberg, MD	Present
Vaune Johnson	Absent

Staff present: Duane Houdek, executive secretary; Bonnie Storbakken, incoming executive secretary; Lynette McDonald, deputy executive secretary; Marijo DeMott, recording secretary; and legal counsel Stacy Moldenhauer.

Guests present: Rita Sommers, representing the Dental Board; Courtney Koeble, representing the North Dakota Medical Assn.; Todd Ternes and Mike Krebs, representing National Medical Resources; Jay Metzger, PA-C and Cheryl Ulven, PA-C, representing the North Dakota Physician Assistants.

Bonnie Storbakken was introduced as the new executive director and visitors were introduced.

Minutes:

Dr. Goven made note of a correction needed on page four. Dr. Haug moved to approve the minutes of the November 18, 2016, meeting with correction to page four, name not completely written out. Dr. Goven seconded the motion. The motion passed unanimously.

Physician Waiver of Interview:

Dr. Goven had a question regarding one physician on page four under the s's. She noted she was out of work for a period of time. Staff indicated she may have had some Visa issues. Dr. Solberg moved to approve the waivers of interview for physician licensure applicants as presented. Dr. Haug seconded the motion. The motion passed unanimously.

Administrative Physician Waiver of Interview:

Dr. Goven moved to approve the waivers of interview for administrative physician licensure applicants as presented. Dr. Olson seconded the motion. The motion passed unanimously.

Investigative Panel A report:

Dr. Olson, Chair, reported that Investigative Panel A reviewed 21 cases: 11 were dismissed, seven were referred for action, one letter of concern was issued, one stipulation was approved, and one case was referred for further review.

Investigative Panel B report:

Ms. Larson, Chair, reported Investigative Panel B reviewed 17 cases: two letters of concern were issued, four stipulations were approved, and 11 cases were dismissed.

Saurav Pokharel, MD

Dr. Haug made a motion which was seconded by Dr. Colón to approve the stipulation which resulted from the complaint brought by panel A and requires an evaluation which is

complete resulting in no recommendations and requires a public letter of censure and payment of costs. Panel B voted unanimously in favor of the motion to approve the stipulation.

Waqqas Khan, MD

This came to us from an issue which resulted in an order in Illinois. This stipulation mirrors the Illinois order which requires participation in the PHP for 5 years with drug and alcohol monitoring. The NDPHP will get a copy of those reports.

A motion was made by Dr. Goven and seconded by Dr. Carver to approve the Stipulation. Panel A voted unanimously in support of the motion to approve the stipulation.

Robert Gustafson, MD

Dr. Gustafson has failed to comply with the PHP. He has had two DUI's and a couple of relapses. We are not sure if he is in treatment or not. He has agreed to give up his license indefinitely. A motion was made by Dr. Olson and seconded by Dr. Sticca to indefinitely suspend Dr. Gustafson's license. Panel A voted unanimously in support of the motion to approve the stipulation.

Matthew Bickel, PA-C

Mr. Bickel was going through divorce and went through his wife's medical records. He violated confidentiality. He is currently deployed. The stipulation gives him nine months to complete the ethics course since he is deployed.

A motion was made by Dr. Sticca and seconded by Dr. Carver to approve the Stipulation. Panel A voted unanimously in support of the motion to approve the stipulation.

Seth Evert, PA-C

Mr. Evert made contact with the NDPHP and then he didn't follow through so now this stipulation will order him to participate in the NDPHP.

Motion was made by Dr. Goven and seconded by Ann Reich to approve the stipulation to order participation in the NDPHP. Panel A voted unanimously in favor of the motion to order PHP participation.

Mansureh Iravani, MD

This case came to us last week. We did interviews and yesterday Panel A authorized a complaint against Dr. Iravani. The affidavits are from two former employees of Dr. Iravani's. Panel B reviewed the proposed complaint in addition to the affidavits that support the proposed complaint.

Dr. Iravani will have the right to a hearing within 30 days if an Ex Parte Order of Temp Suspension is issued.

Dr. Haug motioned to approve an Ex Parte Order of temporary suspension for Dr. Iravani. Dr. Miller seconded the motion and Panel B voted unanimously in favor of the motion for an Ex Parte Order of temporary suspension.

Halbert Miller, MD

Dr. Miller is under a disciplinary order from this board wherein he was required to attend several courses to address ethical and boundary issues. This order stemmed from him prescribing for a girlfriend or someone whom he didn't have a doctor patient relationship. Dr. Miller does not practice in ND, he is in Colorado. After our Order, the Colorado Board put him on probation.

Dr. Miller presents a petition to be released from our Order so that CO will follow. Dr. is petitioning to lift stay. He has completed what we asked of him.

There are issues with specialty boards as they consider anything we ask of physicians to be a restriction on their license rather than a condition. Duane explained the difference between conditioning a license and restricting a license. Colorado has refused to change their Order without ours being changed. Dr. Miller's specialty boards will now be looking at the Colorado Board Order and may revoke his certificate.

Right now, Dr. Miller is on a period of stayed suspension for another 18 months or so. He has met all other requirements of our Order.

A motion to grant petition to lift stayed suspension was made by Dr. Nagala and seconded by Dr. Sticca. The board voted 11-0 in favor of the motion to lift the stayed suspension.

Clemens Esche, MD

Dr. Esche is a board-certified dermatologist who is looking to come to Sanford in Bismarck two weeks per month. Dr. Esche took eight years to complete his USMLE with four attempts.

Dr. Esche has done considerable research at Mayo and Johns Hopkins and completed a US residency at Johns Hopkins.

Dr. Sticca stated that the University of North Dakota now has a hard policy that if students don't pass in three attempts they are out of medical school.

A motion was made by Dr. Haug to grant eligibility for license under our special license and seconded by Ann Reich. Vote was 11-0 in favor of the motion.

The Matter of Roberto Gianani, MD

Dr. Gianani is applying for a "Special License" under our rules. The Board discussed needing to know what his role will be in the position he will be filling. What is the intent? Why does he need anything more than an administrative license? The question is does this applicant fill a need in North Dakota? That is what would be required for us to go outside of our rules. The board is not ready to act as they need additional information.

NDPHP Report

Dr. Barrie March & Tammy King present the NDPHP report.

Tammy provided some statistics from referral sources: Fifteen (15) participants transferred from the old program; 12 referrals came from the ND Board of Medicine; two from

treatment centers; three from other PHP's; eight self-referrals; three from employers; and one from UND. Seven participants have successfully completed program; eight made contact with the program but did not enter either due to not applying for a North Dakota license or didn't require monitoring; and one participant has been reported to the board since the last board meeting.

The NDPHP is working with a new marketing business who is revamping their website and doing a 30 second video that can be sent to TV stations across state as a public service too. They are also developing another brochure.

The NDPHP has developed an exit questionnaire for all the PHP participants which is currently in draft form.

Dr. March reviewed the NDPHP report that was available and scanned to the Board members. There was some discussion of the testing done by the NDPHP. There was a question if hair follicle testing would detect alcohol. We do ETG's on hair which is a good monitor for heavy drinking but not for a single drink.

Dr. March stated two physicians came to them after re-licensure. One referral was from an employer for a depression diagnosis. The employer does not feel the employee is impaired in their work from the diagnosis. The employee has not contacted the NDPHP yet. The NDPHP has three new enrolled participants in the PHP; one physician, one medical student and a PA and all are doing well. Two clients were trying to evade the drug testing requirements. One reported himself and the other was reported to the board by the PHP.

Dr. Goven asked if any other sources of revenue for the program are being pursued? Tammy said it is on the list but hasn't been pursued.

Matter of Renewal Applicant:

Duane Houdek led the discussion. The board reviewed the information provided by the licensee. Duane stated that this does not require action. This is just to illustrate how this works. This applicant answered yes to the question regarding the use of alcohol. She admitted to drinking while running errands and went back to work after drinking. There are not enough

facts to act now. However, the step we can take now is to go ahead and renew the license with the requirement that the physician contact the NDPHP and we are notified that the contact has been made. This gives us some sense of security until we can gather the facts for board review. Even though it is not seen as discipline it doesn't mean steps aren't being taken to provide protections for the public.

Sanford Health Primary Care Clinic Collaborative Agreement

Dr. Goven stated this is a new collaborative agreement with Sanford Health Primary Care Bismarck Region Clinics. The agreement has been approved by Board of Pharmacy. It is a pretty standard agreement. A motion was made by Dr. Haug and seconded by Dr. Solberg to approve the new collaborative agreement with Sanford Health Primary Care Clinic.

Zipnosis Telemedicine

This doctor owns Zipnosis and is a member of the MN Board. She wants to address the board to share what her company does. It is more of a software program for those who do telemedicine. This does not require any action.

ND Board of Cosmetology/Letter from Office of Attorney General

The board of cosmetology sent this practitioner a letter stating she was practicing beyond her scope and she has stopped. There is a letter from the Assistant Attorney General that advises the Cosmetology Board. The practitioner was doing micro blading and was ordered to stop and has done so. We could refer for prosecution or we also could send a cease and desist letter. There was discussion for the board to send a letter to thank the Attorney General's office for the letter and letting them know we appreciate the notification.

Financial Audit

We choose to do an audit every year to keep a recent look at activities rather than following the two-year audit requirement. The audit was clean.

Legislative Update

Duane provided report stating that we received notice from the Attorney General's office on the Telemedicine rule. They assigned a new person to review this for legality who found that Duane didn't notify the Legislative Council to place this on the Legislative Council calendar. Failure to provide notice may be a cause for invalidating the rule. Duane withdrew the rule and now we will need to start the process all over again. Duane states the effect is not so terrible as we have the policy and folks have been devising their policies accordingly. So, whether we call it a policy or rule is not that alarming although it could hurt us if someone was not following it appropriately and we wanted to prosecute. We can roll the PDMP rule into these rules.

3 Bills

- 1) Natural Paths – wanted office procedures, prescription rights & midwifery –This bill died.
- 2) Disciplinary statute that allows us to discipline action of the NDPHP – Passed and at the Governor's desk for signature.
- 3) Interstate Compact Act for Medical License- This passed the senate committee and then the senate without any delayed implementation. In the senate, we asked for a delayed implementation if passed to see how things work. It was then passed over to the House. At this time there was additional information regarding how the Interstate Commission handles questions on their renewal more specifically, they do not ask one question on fitness and physical ability to practice and it is written in the compact that States cannot ask questions until after the license is issued. It just looked wrong. Based on these additional issues we changed our testimony stating that given these developments we can't support this. Additionally, there was an issue with criminal background checks. George Kaiser did a great job presenting the bullet points of concern. The House recommended a do not pass and the bill died.

Employee Service Purchase

Back in July 2015 the board authorized the purchase of 5 years of service for employees under a program authorized in law. This is the language of that policy that has now been approved by NDPERS. It does what you said you wanted it to do back then.

Some things the staff discussed were instances in which Board might not want to do this, i.e., if someone is let go. We also talked about what happens if the board was low on funds. This program can be terminated for any reason or no reason by sending letter to NDPERS as it isn't in policy but is in another letter we have from NDPERS.

Dr. Olson made a motion to approve Employee Service Purchases and seconded by Dr. Haug.

Unfinished Business

Duane was recognized for his 10 years of service to the Board and was wished a happy and healthy retirement.

Adjournment:

Dr. Colón moved to adjourn the meeting. Dr. Miller seconded the motion. The motion passed unanimously.

Kate Larson, PA-C adjourned the meeting at 10:38 a.m.