

NORTH DAKOTA BOARD OF MEDICINE

July 21, 2017

Call to Order:

Kent Hoerauf, MD, 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	Absent
Brenda Miller, MD	Absent
Kent Hoerauf, MD	Present
William Haug, Jr., MD	Present
Sara Solberg, MD	Present
Vaune Johnson	Present

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

Guests present: Courtney Koeble, representing the North Dakota Medical Assn.; Jay Metzger, PA-C and Cheryl Ulven, PA-C, representing the North Dakota Physician Assistants.

Minutes:

Dr. Haug moved to approve the minutes of the March 24, 2017. Dr. Goven seconded the motion. The motion passed unanimously.

Physician Waiver of Interview:

There are 150 licensee's eligible waivers. Specialties include 13 family practice; 10 pediatrics; eight (8) general surgeons; 10 emergency medicine; 12 radiology; six (6) psychiatry; seven (7) neurology; eight (8) critical care; four (4) neurosurgeons; five (5) cardiovascular; three (3) gastroenterology; seven (7) oncology; and five (5) OB-GYNs. Dr. Solberg moved to approve the waivers of interview for physician licensure applicants as presented. Dr. Nagala seconded the motion. The motion passed unanimously.

Administrative Physician Waiver of Interview:

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

Special License Waiver of Interview

Dr. Goven moved to approve the waivers of interview for the two special licensure applicants as presented. Dr. Solberg seconded the motion. The motion passed unanimously.

Residents Waiver of Interview

Dr. Nagala moved to approve the waiver of interview for the resident licensure applicants (57) as presented. Ann Reich seconded the motion. The motion passed unanimously.

Investigative Panel A Report:

Dr. Olson, Chair, reported that Investigative Panel A reviewed 23 cases: 16 were dismissed, three were referred for action, one letter of concern was issued, and three cases were referred for further review.

Investigative Panel B Report:

Dr. Haug, reported Investigative Panel B reviewed 22 cases: one letter of concern was issued, six referred for action, one referred for further review, and 14 cases were dismissed.

Spirit Lake Health Center Pharmacy Collaborative Agreements

Dr. Goven made the motion to approve the pharmacy collaborative agreements. Dr. Haug seconded the motion. The motion passed unanimously.

Eligibility – Carlos H. Silva Rondon, MD

There was discussion that despite him exceeding the seven-year rule he would be providing a needed service in North Dakota. He would be employed by the Billings Clinic in oncology and would be filling a need in western North Dakota. He had done numerous fellowships which caused the delay in the seven-year requirement. He has a rational explanation for missing the seven years and has expertise he will bring to the state.

Dr. Olson made the motion to accept his application to be allowed to apply for a North Dakota medical license. Dr. Haug seconded the motion. The motion passed unanimously.

Physician Dispensing for a Physician or their Family

This issue was brought to the board through communication received from the North Dakota Board of Pharmacy regarding a prescription that was denied by a pharmacist from a doctor who wrote the prescription for himself. The Board of Pharmacy provided a statement that they had previously issued regarding this matter. There was discussion that the Board supports the guidance document provided by the ND Board of Pharmacy.

Dr. Haug made the motion to establish a policy to support the Board of Pharmacy decision to use their discretion when a physician is prescribing for oneself or one's family as outlined within the 1996 position statement regarding dispensing prescriptions to oneself or one's family, additionally, any prescribing requires a documented note in the patient chart, and should the Board of Pharmacy recognize that a physician is the main provider for oneself or family member on a consistent basis that could be seen as a pattern of inappropriate care under the ND Board of Medicine disciplinary rules. Dr. Olson seconded the motion. The motion passed unanimously.

Certified Surgical Assistants

We have received an application for a license for a certified surgical assistant. The applicant is highly qualified but currently there is no mechanism for this licensure with the Board of Medicine. The Nursing Board has also denied a license to him as this is not available to them as well. There was discussion of this fitting with the nursing board or the Department of Health as they license CNA's. There was discussion of needing to look at what other states do.

There was a proposal that we investigate this on a national level, whether they are licensed and if so, by whom. The board directed Bonnie Storbakken to sit down and discuss this matter with the Department of Health and the Board of Nursing and report back to the board.

Administrative Rules

A summary update was given to the Board by the Executive Secretary pointing their direction to the additional draft rules, specifically the PA rule and the PDMP rule. The Executive Secretary will work with the AG's office to ensure our telemedicine rule will not conflict with the legislation regarding telemedicine that was passed in the insurance chapter. The Board voted on each rule separately.

PA Rule Change

There was a question regarding whether the supervising physician needed to be licensed and/or practicing in the state. The Board answered the question stating the rule requires practice in the state of North Dakota and North Dakota licensure is required for supervision under the current language.

Dr. Solberg made the motion to approve the PA rule change. Dr. Goven seconded the motion. The motion passed unanimously.

PDMP Rule

There was a question regarding whether a person who has a North Dakota license but is out of state practicing needs to register with the PDMP. The board felt there should be no exceptions under this rule.

Dr. Goven made the motion to approve the PDMP rule. Dr. Haug seconded the motion. The motion passed unanimously.

Special License

Dr. Solberg made the motion to approve the special license rule change. Dr. Nagala seconded the motion. The motion passed unanimously.

Telemedicine

There was discussion of concern expressed that our rule may be too technologically specific. There was additional discussion that there was a rule passed during the legislative session under the insurance chapter. Bonnie will work with the AG's office to ensure there are no conflicts. There was discussion that the rule needed to be put forth as it is currently written.

Dr. Carver made the motion to approve the telemedicine rule. Dr. Nagala seconded the motion. The motion passed unanimously.

Administrative License Rule

Dr. Solberg made the motion to approve the administrative license rule. Dr. Haug seconded the motion. The motion passed unanimously.

Board Interview

Dr. Hoerauf led the interview of Dr. Tangen. The Board discussed the concerns regarding the restrictions on Dr. Tangen's license in the state of Idaho. The National Practitioner Data Bank report was read and further discussed. Dr. Tangen provided some background information to the board and read a statement regarding the nature of the issue in Idaho. Dr. Tangen has accepted a position in Rugby. The Board asked several questions regarding Dr. Tangen's practice history as well as her new position in Rugby.

A motion was made by Dr. Olson to offer a restricted license which mirrors the Idaho order to include a 180-day monitoring period of her practice through review of 20% of her charts with a report coming to the board in 90 days and again in 180 days. The license will also include a restriction on treating chronic pain patients for a period of two years and to also

strongly suggest she become involved in the PHP to address the burnout she had discussed within the interview. Dr. Goven seconded the motion. The motion passed unanimously.

NCCPA Presentation – Dawn Morton-Rias, EdD, PA-C

Dawn Morton-Rias, EdD, PA-C provided data from the NCCPA regarding the workforce across the nation and within North Dakota. She discussed the NCCPA exam which is taken every ten years.

NDPHP – Tammy King

Tammy presented the PHP report to the Board. Tammy provided some data regarding the PHP stating that they have 18 active participants within the state of North Dakota and nine clients out of state.

The report stated there were no positive drug tests; however, since the report was printed there was one positive drug test. The test limit was so low that there was some confusion as to what the issue was. It has been concluded that the positive was the result of the large amount of kombucha that this participant drinks. Apparently, there is a very small amount (like .5-1%) of alcohol in kombucha. This participant will refrain from consuming kombucha. The PHP will now include kombucha on their list of items to avoid while undergoing random testing.

During the quarter, the PHP added three new clients, one of which is their first self-report individual. One client completed one year of monitoring progress for a previous DUI. One case was closed which was a referral from the CMO/CEO of a medical facility who was concerned about a doctor with depression. The PHP worked with the physician and supervisors and determined she was doing well. One client is pending as they were advised by their attorney to not sign a participation agreement. Three clients were referred to the Board during this quarter.

Tammy discussed the current funding structure and the need to address the Board regarding a request to increase funding. There was discussion about the intent of future funding of the PHP by the Board. There were some differing opinions as to the intent of the

funding mechanism long term. Some believe that the PHP was to secure funding in other ways and become self-funded. Tammy expressed an opinion of her board that they believe the Board of Medicine had agreed to fund the PHP indefinitely. There was discussion that some representatives from the PHP and representatives from the Board of Medicine to discuss the intent regarding the funding mechanism and agreement between the two boards.

Tammy discussed that she will continue to look at additional funding sources. She also discussed the new advertising that is being done to promote the PHP.

There was discussion of Dr. Clark Elliott regarding the request from the PHP that he be closed out as he has been compliant. Dr. Elliott was ordered to participate with the PHP for a period of five years. This order was entered after he had failed to follow through with testing and paperwork requirements. There was discussion that the typical five-year requirement for PHP involvement is to maintain sobriety. The PHP states Dr. Elliott has maintained sobriety for six years.

Dr. Olson made a motion to approve the request of the PHP to grant Dr. Elliott a release from the portion of the stipulation which required PHP involvement. The motion was seconded by Dr. Nagala. The motion passed unanimously.

Use of Laser Technology

This issue came to the agenda after Bonnie was invited to a meeting held between the Board of Cosmetology, Board of Nursing, and the Department of Health to discuss questions that have come to each entity regarding micro-needling, micro-blading, laser hair removal and laser skin resurfacing.

There was discussion that in the past the Board has made statements that laser technology is a medical technology and can be utilized by licensed physicians, advanced practice nurses and PA's under the supervision of their supervising physicians if the physician has laser technology within their scope of practice. Bonnie told the Board that she was asked at the above-mentioned meeting that she revisit these statements with the Board to ensure the

Board still maintains this opinion. The Board discussed their agreement with the statements previously made.

The board discussed the need to make a public statement regarding laser technology which would be available to provide guidance to licensees and the public to see. The board directed Bonnie to develop a policy statement and to review the statement with a dermatologist and bring the statement back to the Board for approval at the next meeting.

Amended Budget 2017

Bonnie and Lynette presented the amended budget and changes that were made to the budget. There was discussion of the changes made. Changes were made in a few areas such as salaries, benefits, and parking which were attributed to the change in Executive Secretary and Duane's retirement and years of service buyout. There was a request for an amendment to allow for the purchase of new office furniture. There was also a change in the legal counsel for services during the legislative session.

The Board discussed the need for new furniture equipment and the costs of the same. The furniture currently being used in the office was inherited by the Board when they moved into their current space.

Dr. Solberg made the motion to approve the amended budget. Vaune Johnson seconded the motion. The motion passed unanimously.

Election of Officers

Dr. Hoerauf provided a description of the Chair position. He believes the Chair needs to review the mission statement upon assuming the role. He listed the following:

1. Represent the Board and preserve the integrity of the office.
2. Be a consultant for the Board staff and a liaison to the Executive Secretary.
3. Signing of Licenses.
4. Liaison with the Federation of State Medical Boards to include attendance at annual meetings.

5. Review of the budget and comment on the audit.

Bonnie discussed the nominations: Dr. Goven was nominated to serve as Treasurer or Vice Chair; Dr. Olson nominated as Chair or Vice Chair and Dr. Nagala as Treasurer.

Dr. Solberg made the motion to nominate Dr. Olson for the Chair position and Dr. Goven as the Vice Chair and Dr. Nagala as the Treasurer. Dr. Sticca seconded the motion. Motion passed unanimously.

Pharmacy Collaborative Agreement Representative Replacement for Dr. Goven

Dr. Goven has been reviewing and presenting the collaborative agreements for each board meeting. She explained that these are more of a contract that is reviewed. These have gone through the hospital system and the Board of Pharmacy prior to coming to the Board of Medicine. Ann Reich was nominated and Dr. Goven stated she would assist Ann with this process when needed.

Dr. Goven nominated Ann Reich. Dr. Olson seconded. The motion passed unanimously.

Office Matters

Bonnie discussed there being two positions open on the Board and two up for reappointment. Bonnie stated that she has received communication from the Governor's office that they have received applications but have not reviewed or made any appointments at this time. They will keep us up to date.

Policies: Bonnie discussed the need to go through current policies and procedures for the Board and update if necessary to maintain consistency. Bonnie requested volunteers to go through policies along with her and Stacy. The number of policies was not provided as there may need to be new policies developed. Personnel policies as well as policies and procedures when receiving and investigating complaints. Drs. Nagala, Sticca and Olson volunteered to review policies and bring them back to the board for review and approval.

Bonnie asked the Board how they would like her to handle yes answers on our license renewal forms. The question was would the Board prefer to review these. The Board stated

they would like to see these listed within summary matters with information regarding the yes answers and what was done with them.

Attendees FSMB Annual Meeting Report

Dr. Olson discussed his attendance at the PHP portion of this meeting. He mentioned that physician burnout was a big topic at this meeting. Ann Reich stated that it was a valuable meeting from the perspective of a public member.

Dr. Goven brought up the issue of Board reimbursement rate. There was discussion of how long the current rates have been in effect. There was a question of what would the budget ramifications be if there was an increase? The Board directed Bonnie to look at the history and what an increase may do to the budget as well as a comparison to other licensing Boards.

Unfinished Business

Dr. Olson gave a speech regarding Dr. Hoerauf's background and the nature of his current work and life interests. Dr. Olson presented a plaque from the Governor's office to Dr. Hoerauf for his years of service on the ND Board of Medicine. The Board thanked Dr. Hoerauf for his eight years of commitment and service to the Board.

Dr. Hoerauf made a statement regarding his time on the board. He stated this has been a valuable experience to see this side of the practice of medicine. He stated that he appreciates working with the dedicated members of the board.

Adjournment:

Dr. Solberg moved to adjourn the meeting. Dr. Nagala seconded the motion. The motion passed unanimously.

Dr. Hoerauf adjourned the meeting at 12:46 p.m.