

NORTH DAKOTA BOARD OF MEDICINE

July 19, 2019

Call to Order:

Robert Olson, MD chair, called the meeting to order at 8:00 a.m., at the Board office in Bismarck. The attendance was as follows:

Investigative Panel A:

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

Investigative Panel B:

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|-------------------------|---------|
| Kate Larson, PA-C | Present |
| Brenda Miller, MD | Present |
| Darin Leetun, MD, | Absent |
| Catherine Houle, MD | Present |
| Sara Solberg, MD, Chair | Present |
| Vaune Johnson | Present |
| Gopal Chemiti, MD | 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.; Cheryl Ulven, PA-C, representing the North Dakota Physician Assistants; and Melissa Henke, MD and Ann Leiseth representing the NDPHP.

Minutes:

Dr. Solberg moved to approve the minutes of the March 22, 2019 as written. Dr. Goven seconded the motion. The motion passed unanimously.

Physician Waiver of Interview:

Dr. Sticca moved to approve the waivers of interview for physician licensure applicants as presented. Dr. Nagala seconded the motion. The motion passed unanimously. Dr. Goven made a motion to approve the residents eligible for waiver which was seconded by Dr. Houle and passed unanimously.

Investigative Panel A report:

Dr. Sticca, Chair, reported that Investigative Panel A reviewed 19 cases: three letters of concern were issued, three were referred for further review, one stipulation was approved, and 12 cases were dismissed.

Investigative Panel B report:

Dr. Solberg, Chair, reported Investigative Panel B reviewed 26 cases: 13 were dismissed, four were referred for further review, five letters of concern were issued, four were referred for action, one regarding prescribing, one regarding unethical conduct, and two for the habitual use of alcohol and four stipulations were approved.

Investigative Panel A vs. Paul Lifland, MD:

Stacy explained the stipulation for approval by the Board. The stipulation was entered after the panel authorized a complaint against Dr. Lifland. The stipulation allows for a public letter of censure for Dr. Lifland. Dr. Solberg made a motion to approve the stipulation which was seconded by Dr. Houle and passed unanimously by the members of Panel B.

Investigative Panel B vs. Lavonne Berg, MD:

Stacy explained the stipulation which was entered after the Panel authorized a complaint against Dr. Berg for her failure to follow her NDPHP agreement. The stipulation requires Dr. Berg to participate in the PHP for a period of five years.

Dr. Goven made a motion to approve the stipulation which was seconded by Dr. Nagala and unanimously approved by the members of Panel A.

Investigative Panel B vs. Mary Clifton, MD:

Stacy explained the stipulation which was entered into after Panel B authorized a complaint against Dr. Clifton for failing to keep medical records. The stipulation requires Dr. Clifton to attend a medical record keeping course.

Dr. Sticca made a motion to approve the stipulation which was seconded by Dr. Goven and unanimously approved by the members of Panel A.

Investigative Panel B vs. Stanley Gallagher, DO:

Stacy explained the stipulation which was entered after Panel B authorized a complaint against Dr. Gallagher for his prescribing practices, specifically for prescribing to family.

Dr. Sticca made a motion to approve the stipulation which was seconded by Dr. Carver and approved unanimously by the members of Panel A.

Investigative Panel B vs Elena Polukhin, MD:

Stacy explained the stipulation entered after a complaint was authorized by Panel B regarding her conviction of federal charges. Ann Reich made a motion to approve the stipulation which was seconded by Dr. Goven and approved unanimously by Panel A.

Orders of Completion:

Gerardo Lantoria, MD: Dr. Nagala made a motion to approve an order of completion to be signed by the Board as Dr. Lantoria has completed the terms of his order. The motion was seconded by Dr. Miller and passed unanimously by a roll a call vote of the Board.

Grace Thomas, MD: Dr. Houle made a motion to approve an order of completion to be signed by the Board as Dr. Thomas has completed the requirements of his order. The motion was seconded by Dr. Nagala and passed unanimously by a roll a call vote of the Board.

John Amsbury, DO: Dr. Goven made a motion to approve an order of completion from Dr. Amsbury as he has completed the requirements of his order. Dr. Nagala seconded the motion which passed unanimously by a roll a call vote of the Board.

Eligibility:

Matter of Joseph A. Murray, MD: Dr. Murray was two months short of the required 30 months of ACGME accredited training required of foreign medical graduates. The Board considered whether Dr. Murray was eligible for licensure under 43-17-18(3)(b). The Board noted that Dr. Murray is board certified in internal medicine. He holds current licenses in four other states with no malpractice or disciplinary history. The Board considered that Dr. Murray has been an employee of Mayo Clinic since 1998. Dr. Sticca made a motion to grant eligibility of licensure to Dr. Murray which was seconded by Dr. Nagala and passed unanimously by a roll call vote of the Board.

Matter of Tamar B. Finkel, MD: Dr. Finkel exceeded the 7 year time limit for completion of her testing by three months. The Board considered whether she would be eligible to apply for licensure under NDAC 50-02-02-01. The Board considered the fact that she was board certified in clinical anatomic pathology, licensed in two other states, has been working since 2005 as a pathologist and had participated in research at UCLA and in Israel. The Board also noted that Dr. Finkel had no history of malpractice or disciplinary action. Dr. Miller made a motion to grant eligibility to Dr. Finkel which was seconded by Dr. Chemiti and passed unanimously by a roll call vote of the Board.

Petition to the Board:

Matter of Wendell Danforth, MD: Dr. Danforth made a petition for reinstatement of his license that had been indefinitely suspended in 2014. Dr. Danforth provided a letter to the Board outlining the actions he has taken to remedy the issues that precipitated the 2014 action. The Board agreed that Dr. Danforth would need to re-apply for licensure in North Dakota as his licenses had been inactive for longer than three years.

Matter of Walter Wynkoop, MD: Dr. Wynkoop made a request to the Board for correction of the spelling of his name in a National Practitioner Data Bank report made by the

Board in 2013. Dr. Wynkoop also asked that the Board amend the description of his action by removing the reference to unprofessional and unethical conduct. The Board reviewed the previous action and instructed Bonnie to have the spelling of the name corrected but to leave the description as is because those words were used in the formal complaint and the signed stipulation admits the charges in the complaint.

Approved Medical Schools Discussion:

Lynette provided a summary for the Board regarding the previous decision to follow the CAAM-HP list of medical schools and how that has affected some of the resident applications. Lynette also provided additional options to consider regarding which medical schools would be accepted by our Board. Dr. Solberg made a motion to approve the same accrediting bodies the IMLC is accepting for medical schools. The motion was seconded by Dr. Houle and passed unanimously by a roll call vote of the Board.

NDPHP Report:

Ann Leiseth and Dr. Melissa Henke provided the NDPHP report: There are currently 38 active clients; 12 of who are board ordered and 16 participants are voluntary. Eight participants are being monitored in another state with reports being sent to the NDPHP. Two cases have been closed out. They provided updates on the addition of other licensees they are now providing services for such as PA's, residents and medical students. They stated that they are conducting meetings with other Boards to discuss the potential of adding other disciplines. A petition for release from the NDPHP was made for Katherine Klein, MD. Dr. Miller left the room for the discussion based on a conflict. After a brief discussion of Dr. Klein's history with the NDPHP, Dr. Goven made a motion to release her from NDPHP participation which was seconded by Dr. Chemiti and passed unanimously by a roll call vote of the Board with Dr. Miller abstaining from the vote.

Board Interviews:

Dean Langenfeld, MD: The interview was led by Dr. Sticca who also provided an overview of the candidate for the Board. Dr. Goven moved to approve a license for Dr.

Langenfeld which was seconded by Dr. Nagala and unanimously approved by a roll call vote of the Board.

Nathan Mickelson, MD: Dr. Carver led the interview and provided a background to the Board about Dr. Mickelson who was denied licensure by the Board in 2015 based on a conviction which affected his ability to practice medicine. The Board discussed letters of support that were received from Dr. Mickelson's probation officer and judge. The Board discussed the fact that he had pled guilty to failing to register as a sex offender in 2018. They also discussed the fact that he has not practiced clinically since 2011. A motion was made by Dr. Solberg to deny licensure using the same language used in the previous denial which was seconded by Vaune Johnson. The motion failed with Dr. Olson, Dr. Nagala, Dr. Carver, Dr. Goven, Dr. Houle and Ann Reich voting no and Dr. Sticca, Dr. Miller, Dr. Solberg, Dr. Chemiti Kate Larson, PA-C and Vaune Johnson voting yes. A second motion was made by Dr. Carver stating the conviction no longer bars him from a pathway back and to hold the application over to allow Dr. Mickelson to provide the board with what he thinks a good pathway back to practice would be for him. This motion was seconded by Dr. Goven and passed with Dr. Olson, Dr. Nagala, Dr. Carver, Dr. Goven, Ann Reich, Dr. Sticca, Kate Larson, PA-C, Dr. Miller, Dr. Houle, and Dr. Chemiti voting yes and Dr. Solberg and Vaune Johnson voting no.

Administrative Rules:

The Board reviewed proposed amendments to Administrative Rules. Each rule was taken separately and voted on. Dr. Solberg made a motion to approve the proposed changes to NDAC 50-02-02-01 regarding the exceptions to technical requirements. Dr. Houle seconded the motion which passed unanimously by a roll call vote of the Board. Dr. Solberg made a motion to approve the proposed changes to NDAC 50-02-12 regarding the appeal process which was seconded by Dr. Nagala and passed unanimously by a roll call vote of the Board. Dr. Solberg made a motion to repeal our seven-year time limit for the USMLE which was seconded by Dr. Goven and passed unanimously by a roll call vote of the Board. Dr. Houle made a motion to approve the proposed amendments to the PA rules which was seconded by Dr. Nagala and passed unanimously by a roll call vote of the Board.

Genetic Counselor Advisory Committee:

Bonnie explained that under statute we are supposed to have appointed a committee with one active genetic counselor and two other physicians. Dr. Sticca and Dr. Miller agreed to serve on a subcommittee to help find people to fill the spots on the committee.

Multiple Business Addresses in Data Base:

A request was made to have the Board office allow for multiple business addresses to be listed in our database. The Board instructed staff to go ahead and do what is necessary to allow this request.

State Investment Board Presentation:

Dave Hunter with the SIB provided an update to the Board regarding the current allocations elected by the Board as well as some options for the Board to consider. Mr. Hunter stated that he was comfortable suggesting a shift to mix three for the Board which would include a little more risk but still be conservative enough for the Board to have some security. Dr. Sticca made a motion to change the allocation to mix three which was seconded by Dr. Chemiti and passed unanimously by a roll call vote of the Board.

Election of Officers:

The annual elections were held and opened with the list of current officers which were Dr. Olson as the Chair, Dr. Goven as the Vice Chair and Dr. Nagala as the treasurer. There was mention that this would be Dr. Olson and Dr. Goven's last meeting with the Board. A motion was made by Dr. Goven to appoint Dr. Nagala as the new chair which was seconded by Dr. Chemiti and passed unanimously by a roll call vote of the Board. Dr. Miller made a motion to appoint Dr. Sticca as the vice chair which was seconded by Vaune Johnson and passed unanimously by a roll call vote of the Board. Dr. Chemiti made a motion to appoint Ann Reich as the Treasurer which was seconded by Vaune Johnson and passed unanimously by a roll call vote of the Board.

Malpractice Report:

Bonnie and Lynette discussed how the malpractice report is currently handled by supplying a copy to both panels for review. This however can create a conflict. The Board directed staff to go by specialty when assigning items on the report to a panel.

FSMB Annual Meeting: Those who attended the meeting provided some information to the Board. Dr. Sticca had attended as our voting delegate. Some of the topics covered at the meeting were sexual boundary violations, opioid guidelines, late career physicians, and sunset review processes. The members were informed that next year the meeting will be held in San Diego on April 30 through May 2, 2020.

Office Matters:

Employee Service Purchase Policy: Bonnie informed the Board that one staff who is eligible to use this policy has initiated her option to do so. Bonnie mentioned that in speaking with PERS it was mentioned that this policy has been used by a number of agencies but typically only available for a short period of time with the agency and then the policy is revoked. It is not typical to have this policy active in an agency indefinitely as it is with the Board. There was some discussion of considering expiring this policy sometime in the future.

Strategic Planning Committee: Bonnie confirmed that Vaune Johnson and Dr. Miller are willing to serve on this committee. She stated she would be contacting them to move forward in between meetings.

Office Space: Bonnie stated that her and the staff were looking at office space at the Ridge West Building in north Bismarck. She will continue to work with Dr. Nagala in negotiating a lease for new space.

PDMP: Dr. Goven reminded the Board that a new PDMP representative would need to be appointed as she has had that position and is completing her time on the Board. Dr. Goven stated that meetings are held in Bismarck twice a year. Dr. Miller volunteered to attend the PDMP meetings on behalf of the Board as she resides in Bismarck.

Software Program: Bonnie and Lynette highlighted some issues with our current software provider. Dr. Solberg volunteered to help evaluate other providers and what they can offer.

Farewell and Thank you: Dr. Olson and Dr. Goven were presented with plaques and thanked for their many years of service to the Board of Medicine. Dr. Chemitani was presented with a letter thanking him for his service to the Board as well.

Adjournment:

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

Dr. Olson adjourned the meeting at 12:13 p.m.