

**NORTH DAKOTA BOARD OF MEDICINE**

**November 22, 2019**

**Call to Order:**

Rup Nagala, 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:**

Michael Quast, MD	Present
Rup Nagala, MD	Present
Thomas Carver, DO	Absent
Lacey Armstrong, MD	Present
Robert Sticca, MD, Chair	Present
Ann Reich	Present

**Investigative Panel B:**

Jay Metzger, PA-C	Present
Brenda Miller, MD	Present by telephone
Darin Leetun, MD	Present
Catherine Houle, MD	Present
Sara Solberg, MD, Chair	Present
Vaune Johnson	Present
Rajendra Potluri, 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; Deb Houdek, PA-C, representing the North Dakota Physician Assistants; and Melissa Henke, MD, Michael Schmidt, MD, and Ann Leiseth, representing the NDPHP; and Kirsten Peterson, MD.

**Minutes:**

There were two sets of minutes for review and approval. Dr. Solberg moved to approve the minutes of the October 2019 as written. Dr. Leetun seconded the motion. The motion

passed unanimously. Dr. Solberg moved to approve the minutes of the July 19, 2019 Board meeting as written. Dr. Houle seconded the motion which was passed unanimously.

**Physician Waiver of Interview:**

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

**Physician Assistant and Genetic Counselor Waivers of Interview:**

Dr. Sticca motioned to approve the waiver of interview for the physician assistants which was seconded by Vaune Johnson and passed unanimously. Dr. Solberg motioned to approve the waiver of interviews for the genetic counselors which was seconded by Dr. Leetun and passed unanimously.

**IMLC Report:** Lynette provided a report to the Board on the IMLC. She stated that we currently had 19 licenses that were issued using North Dakota as the state of principle licensure and 62 licenses issued without North Dakota as the state of principle licensure. Lynette stated that as of the time of our meeting there was a total of 93 IMLC applications received by the Board.

**Investigative Panel A report:**

Dr. Sticca, Chair, raised the issue of Panel A not being allotted enough time to meet and recommended that we move their start time to 2:30 pm which was supported by the Board members. Dr. Sticca reported that Investigative Panel A reviewed 19 cases: two letters of concern were issued, two were referred for further review, two were referred for formal action for quality of care and unprofessional conduct, two stipulations were approved, and 11 cases were dismissed. Panel A also had four cases referred for formal action regarding CME non-

compliance, three for failure to respond to the CME audit and one disclosed non-compliance on renewal.

**Investigative Panel B report:**

Dr. Solberg, Chair, reported Investigative Panel B reviewed 16 cases: six were dismissed, one was referred for further review, four letters of concern were issued, two were referred for action for the habitual use of alcohol, and three stipulations were approved.

**Orders of Completion:**

**Scharazard Gray, MD:** Dr. Sticca made a motion to approve the order of completion for Dr. Gray which was seconded by Dr. Quast and unanimously approved by a roll call vote of the Board.

**Investigative Panel A vs. Oyentunde Siyanbade, MD:**

Stacy explained the stipulation for approval by the Board. The stipulation was entered after the panel authorized a complaint against Dr. Siyanbade. The stipulation requires additional training to be completed. Dr. Solberg made a motion to approve the stipulation which was seconded by Vaune Johnson and passed unanimously by the members of Panel B as well as Dr. Quast and Dr. Armstrong from panel A as they were not Board members at the time the complaint was reviewed.

**Investigative Panel A vs. Mark Bell, DO:**

Stacy explained the stipulation which was entered after the Panel authorized a complaint against Dr. Bell to revoke his medical license. Dr. Houle made a motion to approve the stipulation which was seconded by Dr. Solberg and unanimously approved by a roll call vote of Panel B and Dr. Quast and Dr. Armstrong as they were not Board members at the time the complaint was reviewed.

**Investigative Panel B vs. Richard Larson, MD:**

Stacy explained the stipulation which was entered after Panel B authorized a complaint against Dr. Larson. The stipulation limits Dr. Larson's prescribing for six months.

Ann Reich made a motion to approve the stipulation which was seconded by Dr. Armstrong and unanimously approved by the members of Panel A as well as Jay Metzger, PA-C and Dr. Potluri as they were not Board members when this matter was reviewed by Panel B.

**Investigative Panel B vs. Richard Nybakken, MD:**

Stacy explained the stipulation which was entered after Panel B authorized a complaint against Dr. Nybakken for his non-compliance with the NDPHP. The stipulation is for an indefinite suspension of Dr. Nybakken's license.

Dr. Sticca made a motion to approve the stipulation which was seconded by Dr. Armstrong and approved unanimously by the members of Panel A as well as Jay Metzger, PA-C and Dr. Potluri as they were not Board members when this matter was reviewed by Panel B.

**Investigative Panel B vs Sherman Washington, MD:**

Stacy explained the stipulation entered after a complaint was authorized by Panel B regarding his lack of medical records. The stipulation requires Dr. Washington to take a medical record keeping course and pay the costs associated with the complaint. Ann Reich made a motion to approve the stipulation which was seconded by Dr. Sticca and approved unanimously by Panel A as well as Jay Metzger, PA-C and Dr. Potluri as they were not Board members when this matter was reviewed by Panel B.

**Petition to the Board:**

**Matter of Kirsten Peterson, MD:** Dr. Peterson made a petition to lift the restrictions on her license. There was discussion on the current restrictions and her plans moving forward regarding work hours and the work she has done to allow for the lifting of the restrictions. Dr. Sticca made a motion to approve the petition to lift restrictions which was seconded by Dr. Leetun and unanimously approved by a roll call vote of the Board.

**Eligibility:**

**Matter of C. Pratt, MD:** Dr. Pratt took over eight years to complete the USMLE. The Board considered the upcoming request for removal of the seven-year time limitation rule in addition to the fact that Dr. Pratt was connected to the State of North Dakota, he is licensed in Iowa and he has had no malpractice and no issues in his residency. Dr. Potluri made a motion to grant eligibility of licensure to Dr. Pratt which was seconded by Dr. Leetun and passed unanimously by a roll call vote of the Board with Dr. Sticca abstaining from the vote.

**Board Interviews:**

**Jawed Ehsan, MD:** The interview was led by Dr. Sticca who also provided an overview of the candidate for the Board. There was discussion of the actions taken against Dr. Ehsan's license in Illinois. Dr. Ehsan answered questions regarding the previous actions. Dr. Sticca moved to deny a license to Dr. Ehsan which was seconded by Dr. Potluri and unanimously approved by a roll call vote of the Board.

**Hawwa Alao, MD:** The Board interviewed Dr. Alao regarding her application for licensure in North Dakota and her recent employment history. After some discussion of her application and history, Dr. Solberg made a motion to approve licensure of Dr. Alao which was seconded by Dr. Houle and passed unanimously by a roll call vote of the Board.

**Michael Okumura, MD:** Dr. Solberg led the interview of Dr. Okumura. Dr. Okumura answered questions about his practice history in Tennessee as well as Michigan and the action taken against his license in Michigan. Dr. Quast made a motion to approve his license on the condition that he participate in the NDPHP and not be assigned as a member of a narcotics waste program or have access to a narcotics lock box. The motion was seconded by Dr. Sticca and passed unanimously by a roll call vote of the Board.

**Investigative Panel A vs. John Gillman, MD (Order for Motion of Default):**

Bonnie explained that this was a default motion that was made by our counsel as we could never reach him to resolve the matter. This order was modified by our staff from the ALJ order to include paying to costs of seeking default judgment through the ALJ. Dr. Solberg made

a motion to approve the modified order of default which was seconded by Jay Metzger, PA-C and unanimously passed by a roll call vote of Panel B as well as Dr. Quast and Dr. Armstrong from Panel A as they were not members of the Board when the matter was reviewed and decided by Panel A.

**Investigative Panel A vs Paul Harnetty, MD (Order for Motion of Default):**

Bonnie explained that this was a default motion that was made by our counsel to resolve the action authorized by Panel A. The order presented to the Board for review and approval was the Order that was drafted by the ALJ. Dr. Leetun made a motion to approve the order as written which was seconded by Dr. Solberg and unanimously passed by a roll call vote of Panel B as well as Dr. Quast and Dr. Armstrong from Panel A as they were not members of the Board when the matter was reviewed and decided by Panel A.

**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 26 participants that are voluntary. They provided updates on their communication with the Board of Nursing and the potential of entering a memorandum of understanding with their CRNAs. They also mentioned their recent advertising on the radio and television.

**PA Issues with New Legislation:**

Bonnie presented the Board with a certifying statement to add to the PA application considering the changes in statute. Dr. Houle made a motion to add the certifying statement as proposed by Bonnie. Dr. Solberg seconded the motion which passed unanimously by a roll call vote of the Board.

The Board discussed the process of reviewing petitions from PAs to work at a facility not defined in our statute. The Board discussed that Jay Metzger, PA-C will work with our office to provide a review of the petitions which will then be approved by Dr. Nagala. If approved these will then be presented within the PA waivers for approval by the Board. If the petitions are not approved, they can be brought back before the Board for full discussion and approval.

**VeriDoc Fee Increase:**

Lynette explained to the Board that VeriDoc was increasing their license verification fees by \$7.00 effective December 1, 2019. VeriDoc's increase will not affect the amount the Board is receiving per verification; however, the cost of a ND medical license verification will be increased from \$30 to \$37.

**Audit Report:**

Bonnie discussed the audit report being similar to those we have seen in the past with no new recommendations being made. No action was needed or taken.

**Proposed Budget 2020:**

Bonnie recommended that the Board consider changing how we review and approve our budget. She stated that it would be best to have final numbers for the year to approve rather than attempting to guess on the income which is variable. In order to make this change the Board would need to authorize spending until a budget committee could approve the final budget which will then be brought to the March 2020 meeting for review and ratification by the full Board. Jay Metzger, PA-C made a motion to approve spending until the budget could be approved by the appointed committee. The motion was seconded by Vaune Johnson and passed unanimously by a roll call vote of the board with Dr. Sticca being absent for this vote.

Vaune Johnson volunteered to work with the staff to approve the budget. Dr. Potluri made a motion to have Vaune approve the budget and bring back to the Board. The motion was seconded by Dr. Quast and passed unanimously by a roll call vote of the Board with Dr. Sticca being absent for this vote and Vaune Johnson abstaining.

Bonnie discussed the new office space and the build-out costs associated with the new space. She provided information for the Board on the payment options for the costs which were either paying them in total or rolling them into the lease for the new space. Vaune Johnson made a motion to pay the costs in total to avoid the interest payments associated with rolling the costs into the lease. The motion was seconded by Dr. Leetun and passed unanimously by a roll call vote of the board with Dr. Sticca being absent for this vote.

The staff was given the opportunity to step out of the meeting to allow the Chair to discuss proposed salary increases for the staff. Dr. Nagala proposed an increase for all staff of three percent. The Board discussed salaries and state recommendations for salary increases. Jay Metzger, PA-C made a motion to approve the recommended 3% increase for all staff which was seconded by Ann Reich and passed unanimously by a roll call vote of the Board with Dr. Sticca being absent from this vote.

Dr. Nagala also chose to discuss the employment contract for the Executive Secretary. Dr. Solberg made a motion to approve the contract with the removal of the provisions for comp time and outside consulting. The motion was seconded by Jay Metzger, PA-C and passed unanimously by a roll call vote of the Board with Dr. Sticca being absent for this vote.

Staff was then asked to come back in for the remainder of the meeting.

**Policies Update:**

**Per Diem Policy:** Bonnie explained that we had changed our per diem policy based on discussion with the Attorney General's office. Bonnie stated that this new application of per diem should be reflected within our policies. Dr. Solberg made a motion to amend our policy on per diem to reflect what was required by the Attorney General's office. The motion was seconded by Dr. Houle and passed unanimously by a roll call vote of the Board with Dr. Sticca being absent for this vote.

**Employee Service Purchase Policy:** The Board discussed the service purchase policy and that we have one employee eligible to utilize the policy who has not elected to do so at this time. The Board directed staff to keep this policy open to allow the remaining staff member the opportunity to utilize the policy and then place it back on the agenda in March 2020 with the intent to remove the policy.

**Performance Management Policy:** A motion was made to amend the Performance Management Policy regarding the Executive Committee and review of the Executive Secretary. Dr. Solberg made a motion to allow the Chair to be the official reviewer of the Executive Secretary with a report back to the Board for their approval of the review. The motion was

seconded by Dr. Leetun and passed unanimously by a roll call vote of the Board with Dr. Sticca being absent for this vote.

**Office Matters:**

Dr. Nagala pointed out an article from Clinical Neurology News for the Board's review and gave kudos to Bonnie for her work on the Board's licensing application questions. Information from the FSMB regarding a CMS rule was shared with the Board as informational only.

**PDMP:** Dr. Miller reiterated her intent to be the PDMP representative and attend meetings on behalf of the Board as she resides in Bismarck.

**Workflow:** Bonnie provided information to the Board on the increase in applications and workload for the staff over the last few years. She stated that she has staff that are afraid to use their earned vacation time due to the stress associated with the workload. She also stated that the addition of the IMLC adds to the workload as well as the process is different. Bonnie recommended hiring a part time staff person to help with the current workload. Vaune Johnson made a motion to approve hiring a part time employee for up to 20 hours a week. The motion was seconded by Dr. Houle and passed unanimously by a roll call vote of the Board with Dr. Sticca being absent for this vote.

**Strategic Planning Committee:** Bonnie provided a questionnaire assembled by the committee for the Board members to complete and return. The strategic planning committee will review the questionnaires once they are submitted. This will help inform the committee to provide recommendations to the Board regarding how the Board does its business.

**Adjournment:**

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

Dr. Nagala adjourned the meeting at 12:25 p.m.