

**NORTH DAKOTA BOARD OF MEDICINE**

**November 20, 2020**

**Call to Order:**

Rup Nagala, MD, chair, called the meeting to order at 8:05 a.m., through Zoom conferencing. The attendance was as follows:

Rup Nagala, MD, Chair	Present
Robert Sticca, MD, Vice Chair	Present
Michael Quast, MD	Present
Thomas Carver, DO	Present
Lacey Armstrong, MD	Present
Ann Reich	Present
Jay Metzger, PA-C	Present
Brenda Miller, MD	Present
Darin Leetun, MD	Present
Catherine Houle, MD	Present
Sara Solberg, MD,	Present
Vaune Johnson	Present
Rajendra Potluri, MD	Present

Also present: Sandra DePountis, acting executive director, Bonnie Storbakken, executive director; Lynette McDonald, deputy executive director; and legal counsel Stacy Moldenhauer.

Guests present Courtney Koebele and Dr. Mike Booth, representing the North Dakota Medical Assn; Dr. Melissa Henke and Ann Leiseth, representing the NDPHP; Cheryl Ulven, PA-C representing the NDAPA; Dean and Ronda Rustad representing Compass Health; Shelly Bartow, PA-C; Brenna Hudson, PA-C; McKenzie Schroeder; attorney John Ward; interviewee Cynthia Blalock, MD; Blair Matheson, MD; Jody Thompson, MD; and representatives from MOntrail County Medical Center.

**Minutes:**

Dr. Sticca moved to approve the July 24, 2020, meeting minutes; seconded by Dr. Miller. The motion passed unanimously.

Dr. Houle moved to approve the September 8, 2020, special meeting minutes; seconded by Dr. Leetun. The motion passed unanimously.

**Physician Waiver of Interview:**

Dr. Solberg moved to approve the 128 waivers of interview for physician licensure applicants and one (1) administrative licensure candidate, as presented, seconded by Dr. Carver. The motion passed unanimously by a roll call vote.

**Residents Waiver of Interview:**

Dr. Sticca made a motion to approve the waivers of interview for the two (2) residents as presented, seconded by Vaune Johnson. The motion passed unanimously by a roll call vote.

**Physician Assistant Waivers of Interview:**

Dr. Houle motioned to approve the waiver of interview for the sixteen (16) physician assistants, as presented, seconded by Ann Reich. The motion passed unanimously by a roll call vote.

**Genetic Counselor Waivers of Interview**

Dr. Miller motioned to approve the waiver of interviews for the nine (9) genetic counselors, as presented, seconded by Dr. Leetun. The motion passed unanimously by a roll call vote.

**IMLC License Granted:**

The Board received information on nineteen (19) Letters of Qualification for State of Principal Licensure and 121 non-principal licenses. As of Nov. 16, 2020, 393 Non-SPLs were issued, 73 SPLs, totally 466 licenses issued through the compact.

**Interview for Licensure**

Dr. Miller led the interview of Dr. Cynthia Blalock. Dr. Miller questioned the disclosures in the application regarding work at the VA hospital and lack of charting. Dr. Blalock responded that she did not receive formal training on EMR when she began working. When she was

trained, she was able to catch up and complete charting but did not appreciate the background scenes, discussion, and maneuvering of the VA hospital, feeling they valued quantity or quality of care. Dr. Miller questioned whether she caught up with the charting because in follow up with the VA, they allege there was still over 170 open cases at the time she was terminated. Dr. Blalock disagrees saying that report is not accurate.

Dr. Blalock was next asked about a malpractice suit involving the use of a laser. Dr. Blalock gave an overview of training and that the failure to do a test patch resulted in higher levels than necessary. Dr. Blalock does not plan on providing laser treatment in North Dakota, but will be working in the ER 7-10 days a month in Williston, but will otherwise continue her practice in Charleston. Dr. Miller provided that the EPIC system used in Williston took over a month to learn and Dr. Blalock thanked Dr. Miller for the information so she could adequately prepare.

The Board generally discussed Dr. Blalock's information, noting the discrepancies in information regarding charting, but that they have received similar concerns regarding practices at various VA facilities.

Dr. Potluri motioned to grant Dr. Blalock a license, seconded by Dr. Carver. The motion passed unanimously by a roll call vote.

**Investigative Panel A report:**

Dr. Sticca, Chair, reported that Investigative Panel A reviewed twenty (20) cases: one (1) case referred for formal disciplinary action, four (4) Confidential Letters of Concern was authorized, two (2) cases were tabled for further review, and thirteen (13) cases were dismissed.

**Investigative Panel B report:**

Dr. Solberg, Chair, reported that Investigative Panel B reviewed twenty-one (21) cases: one (1) stipulation was approved, one (1) case was referred for formal disciplinary action, one (1) Confidential Letter of Concern was authorized, seven (7) cases were tabled for further review, and nine (9) cases were dismissed.

**IPB vs Patrick McGree, MD:**

Stacy explained the case and the Board was presented with a signed Stipulation to revoke the license. Dr. Sticca motioned to approve the Stipulation and Order, seconded by Ann Reich. The motion passed unanimously by a roll call vote.

**Extension to Order for Oyetunde Siyanbade, MD**

An Order was issued Nov. 22, 2019, for Dr. Siyanbade to complete two courses within nine months. Due to COVID, the courses were not available in this time frame, which was confirmed by Dr. Sticca. Dr. Sticca motioned to amend the Order granting a one year extension to complete the required courses, seconded by Dr. Carver. The motion passed unanimously by a roll call vote.

**Orders of Completion:**

**Julie Keller, PA-C:** PA-C Keller was Ordered to complete an intensive psychopharmacology course and pay fees. The Board reviewed the Certificate of Completion of the required course and verified that fees were paid. Dr. Houle motioned to approve the Order of Completion, seconded by Dr. Solberg. The motion passed unanimously by a roll call vote.

**Matthew Viscito, MD:** Dr. Viscito was Ordered to complete a Prescribing Controlled Substance Course, pay fees, and have a preceptor review prescribing cases. The Board reviewed the Certificate of Completion of the required course, verified that fees were paid, and reviewed Dr. Marquardt's case reviews. Dr. Miller motioned to approve the Order of Completion, seconded by Dr. Leetun. The motion passed unanimously by a roll call vote.

**Frederick Mosley, MD:** Dr. Mosley was Ordered to complete an ethics course and pay fees. The Board reviewed the Certificate of Completion of the required course and verified that fees were paid. Dr. Carver motioned to approve the Order of Completion, seconded by Dr. Houle. The motion passed unanimously by a roll call vote.

**PA Practice Petition to the Board:**

**Shelley Bartow, PA-C and Brenna Hudson, PA-C:** Both PA's have petitioned the Board for permission to work at a facility outside a licensed health care facility, facility with credentialing and privileging system, or physician owned facility. The Board discussed the independence of the PA's and previous request to obtain courtesy privileges from a hospital. PA Hudson, along with others interested in the practice that were present at the meeting, expressed confusion over what courtesy privileges would be required and obtained, considering no work would be done at the neighboring hospitals and the resulting liability. The Board acknowledged the frustration that must be felt by the PAs who have been working for eight months to get this approval, but reiterated that the Board is trying to take the necessary steps in order to ensure adequate protection for the health and safety of the public. Legal Council also brought up the Board has primarily been responsible for licensing physicians, PAs, and Genetic Counselors, but this law is approving practice and a facility which raises numerous new issues for the Board to consider, such as whether it is even legal for a nonprofit corporation to employ health care workers. This may require an Attorney General's opinion to resolve. The Board also discussed the proposed Collaboration Agreement and how it needed to be amended to require any termination of the Agreement to be reported to the Board within a specified time frame.

Dr. Sticca made a motion to approve the practices contingent upon submitting the updated Collaborative Agreement and that future guidelines would be applied retroactively and PA-C Hudson and PA-C Bartow would need to meet any future guidelines and requirements. PA-C Metzger seconded the motion. Roll call vote was taken, all in favor other than Dr. Leetun voting no.

The Board then discussed convening a committee to come up with standard protocols and defining the parameters and relationship for these practices. Dr. Sticca made a motion to convene such a committee, which would be composed of Dr. Solberg, PA-C Metzger, and Dr. Houle. Dr. Houle seconded the motion, which passed unanimously by roll call vote of the Board.

**USMLE Step 2 Pause Presentation by Dr. Booth and NDMA Resolution**

Dr. Booth with NDMA provided a presentation regarding the USMLE Step 2 Pause and concerns regarding the requirement for this testing versus an in-school exam. The Board generally also expressed concerns on whether the Step 2 was necessary in the licensure process. Dr. Sticca mentioned that though he personally agreed, as Board members they need to look at this from a public protection standpoint and recognize there was criteria and reasoning for the passage of this exam to monitor physicians becoming licensed to practice. The Board encouraged NDMA to reach out to the FSMB regarding their concerns.

### **NDPHP Report:**

Dr. Melissa Henke provided the NDPHP report: there are currently twelve (12) Board ordered participants and twenty-one (21) voluntary participants and two pending. Dr. Henke was pleased to report seven (7) participants were closed out within the last quarter.

The Board then considered two petitions to modify orders – from Jantey Carey, MD, and John Schatteles, MD. The Board reviewed the petitions but did not see any evidence to suggest the Orders should be modified, taking into account the past participation and input from the NDPHP. Ann Reich motioned to deny the petitions to modify the orders, seconded by Dr. Houle. The motion passed unanimously by a roll call vote with Dr. Potluri recusing.

### **Upcoming Legislative Session**

The Board received information regarding the upcoming Legislative Session and the challenges that might be faced due to COVID. Dr. Houle moved to appoint a Legislative Committee to be composed of Dr. Miller, Dr. Sticca, and Dr. Quast, to review applicable bills and provide testimony and positions on behalf of the Board, seconded by Dr. Solberg. The motion passed unanimously by roll call vote.

The Board also received general information regarding Article XIV of the North Dakota Constitution, implementing new gifting rules for public officials and lobbyist.

### **2021 Budget**

Vaune Johnson agreed to work with the office again on the 2021 Budget.

It was recommended to provide 2% raises to office staff, aligning to the raises given to State Employees. Dr. Sticca motioned to approve the 2% raises, seconded by Dr. Potluri. The motion passed unanimously by roll call vote.

Dr. Sticca motioned to authorize spending until the 2021 Budget can be presented and reviewed at the next meeting, seconded by Dr. Potluri. The motion passed unanimously by roll call vote.

### **Strategic Planning Committee**

The Board reviewed answers posed by a previously convened Strategic Planning Committee regarding upcoming meetings and committees. Discussions ensued on the importance of having in person meetings while recognizing the need to be flexible especially with the pandemic. Office staff mentioned the amount of work that goes into back to back panel meetings followed by a full board meeting. Dr. Sticca motioned to do quarterly meetings in 2021, with the May and November meetings being in person, seconded by Vaune Johnson. The motion passed unanimously by roll call vote.

### **Updates to Operations Manual and Procedural Policy**

The Board discussed the questions being asked on applications for renewal and licensure in light of recent events and concerns of physicians who want/need help but are too afraid to reach out to programs such as those through the NDPHP in fear of having to report it to licensing Boards. Dr. Nagala provided information regarding a review done by Sanford's Board of Directors on what is being asked on the applications in comparison with other states. Dr. Henke, NDPHP, provided input and desire to be a part of this discussion moving forward, expressing concerns with some verbiage such as "impairment." Dr. Henke also expressed that those who are part of other jurisdiction's PHPs be required to submit to NDPHP if practicing within the state.

The Board also needs to update its policies and procedures on what needs to come before the Board, versus allowing approval by the Chair/Office for licensure/renewals.

Dr. Solberg made a motion to convene a committee, composed of Dr. Armstrong, Dr. Potluri, and Dr. Nagala, to review the questions and policies, seconded by Ann Reich. The motion passed unanimously by roll call vote.

### **Role of Legal Counsel**

The Board received information regarding roles of General Counsel versus Legal Counsel and why it is necessary and appropriate to split these two roles. The Board recognized the strength and expertise of Stacy Moldenhauer as legal counsel for the Panels and litigation matters, and the ability to obtain separate General Counsel services from the Office of Attorney General. Dr. Houle motioned to retain Ms. Moldenhauer as litigation counsel and ask for an Assistant Attorney General be appointed as General Counsel for the NDBOM, seconded by Dr. Miller. The motion passed unanimously by roll call vote.

### **Office Matters:**

The Board received general information regarding the database systems and software utilized by the office obtained from Albertsons, which has been raising costs without an associated contract in place or being responsive to requests for information. The Board authorized Dr. Solberg to work with the office to begin market research into updating the system and moving forward with potential procurement of new software and database systems.

Dr. Nagala adjourned the meeting at 11:32 a.m.