

NORTH DAKOTA BOARD OF MEDICINE

May 21, 2021

Call to Order:

Rup Nagala, MD, chair, called the meeting to order at 8:05 a.m. Attending the meeting:

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 via Zoom
Brenda Miller, MD	Present
Darin Leetun, MD	Present
Catherine Houle, MD	Present
Sara Solberg, MD,	Present
Rajendra Potluri, MD	Present
Vaune Johnson	Present

Also present: Sandra DePountis, executive director; Lynette McDonald, deputy executive director; Stacy Moldenhauer, litigation counsel (present through Operations Manual); and Allyson Hicks, general counsel.

Guests present: Courtney Koebele, North Dakota Medical Assn; Dr. Melissa Henke and Ann Leiseth, NDPHP. Lance Schreiner, acting as the attorney for the PHP for contract negotiations as well as serving on PHP’s Board of Directors, and John Olson and Julie Blehm (via Zoom), PHP Board of Directors, were present for the PHP discussion before moving into executive session.

The following were present for their respective interviews via Zoom: Wendell Danforth, MD, and Kasimu Moody, MD.

Minutes

Dr. Houle moved to approve the February 19, 2021, meeting minutes with one correction of reference to JAMA; seconded by Dr. Potluri. The motion passed unanimously.

IPB vs Daniel Walsh, MD

IPA received an overview of the underlying case involving behavior issues while interacting with a patient that led to being placed on administrative leave for one week. IPA was presented with a signed Stipulation requiring Dr. Walsh to complete an anger management course, a professionalism course, and payment of fees. Dr. Sticca motioned to approve the proposed Order, seconded by Dr. Carver. The motion passed unanimously by a roll call vote of IPA.

Interview for Licensure – Wendell Danforth, MD

Dr. Danforth is petitioning the Board to remove conditions on his license. Dr. Danforth's license was indefinitely suspended on July 25, 2014, due to alcohol in the workplace while working in North Carolina. Dr. Danforth's North Carolina license was also indefinitely suspended in 2013 for improperly writing prescriptions to co-workers and engaging in inappropriate relationships with a patient and co-worker. Dr. Danforth was ordered to participate in a PHP program for five years. Dr. Danforth successfully completed the program requirements in 2021. Dr. Armstrong led the interview of this applicant.

Dr. Danforth gave an overview of his past behavior that he attributed to alcoholism, and the events leading up to his license being suspended. Dr. Danforth said he does not defend his actions but does defend his recovery and work put in for rehabilitation, and provided an overview of his path to recovery. He verified that he still has a supervisor present for patient visits. He would like the option to practice in North Dakota in the future and that he currently does not have any conditions on any other of his active licenses.

Dr. Potluri motioned to grant a license without restrictions, seconded by Dr. Sticca. The motion was passed by unanimous roll call vote.

Interview for Licensure – Kasimu Moody, MD

Dr. Moody is applying for locum tenens work in North Dakota and disclosed previously being indicted on federal charges while moonlighting at a clinic that was forging and selling prescriptions to patients. Dr. Moody was ultimately convicted of a misdemeanor charge and his Louisiana license was placed on restrictions from 2007 to 2010. Dr. Moody also has two previously settled malpractice claims for failure to diagnose ankle fractures in 2014, which settled for \$202,100, and in 2012, which settled for \$85,000. Dr. Miller led the interview of this applicant.

Dr. Moody discussed the incident in Louisiana, answering questions on how at the time of taking that position, he was new to practice and did not know what was happening at the clinic until it was too late. He learned valuable lessons from this experience and states his practice is stronger now because of going through this incident, and he views his practice as a privilege, not a right. He approaches subsequent controlled substance prescriptions with extra caution. Dr. Moody plans on doing family practice or urgent care telemedicine in the state.

Dr. Solberg motioned to approve an unrestricted license, seconded by Dr. Houle. The motion passed unanimously by roll call vote.

NDPHP Report

Dr. Melissa Henke provided the NDDPH report: there are currently thirteen (13) Board ordered participants, thirty (30) voluntary participants, four (4) pending participants; and three (3) participants that had successfully closed out of the program. Dr. Henke discussed recent outreach including doing presentations for the ND Courts and judicial system and at the PA conference. Dr. Henke also answered some questions from the Board on how PHP handles situations in which a participant wants to amend his/her monitoring agreement. Dr. Henke stated that this is something she works out with the participant and the participant's treatment provider. They can also reach out to other PHP programs throughout the nation for ideas and help with unique situations. Dr. Henke reported that they are updating their policies and processes including changing the language on the Intent to Participate, as it currently now requires participants to agree to sign a monitoring agreement, without the terms of the

monitoring agreement available at this point in the process. The PHP also discussed providing information to the Board at its next meeting on its available resources and policies and procedures.

NDPHP Contract Review

At its last meeting, the Board appointed Dr. Miller as the point of contact to meet with NDPHP to review its contract with the Board. Information was gathered regarding updated policies of the NDPHP and NDPHP financials. Attorney Hicks negotiated a draft contract with PHP's attorney, Lance Schreiner, although there were terms that were not mutually agreed upon. Attorney Hicks asked Attorney Schreiner if he had any other amendments or proposals before the Board moved into executive session. Attorney Schreiner verified he had nothing additional at that time, other than the concerns previously discussed with Attorney Hicks.

Dr. Solberg motioned to enter an executive session to discuss the PHP contract pursuant to North Dakota Century Code section 44-04-19.1(2) and (9) for attorney consultation and negotiation strategy and investigatory information pursuant to North Dakota Century Code section 43-17.1-08, seconded by Dr. Leetun, motion passed by unanimous roll call vote.

The executive session commenced at 9:10 a.m. and present were NDBOM members; Sandra DePountis, executive director; Lynette McDonald, deputy executive director; Stacy Moldenhauer, litigation counsel; and Allyson Hicks, general counsel.

The Board reconvened in regular meeting at 10:10 a.m. The public was invited back into the room. Dr. Houle made a motion authorizing Attorney Hicks to go forward with contract negotiations within the parameters discussed in the executive session, seconded by Dr. Solberg. Motion passed unanimously by roll call vote.

Operations Manual Updates

A draft update to the Board's Operations Manual based on discussions from the last meeting was reviewed by the Board. The manual was updated to clarify when a case supervisor was appointed, requirements for fingerprinting, how to handle open record requests for "personal information" of its licensees protected pursuant to North Dakota Century Code

sections 44-04-18.1 and 44-04-18.21, and that all requests to utilize the Board's website and database for non-board purposes would be refused.

The Board again reviewed its application and licensure policies on how to handle derogatory information disclosed on initial and renewal applications. As per previous discussions, an applicant must interview or go before an investigative panel if he/she reports a current impairment to the ability to practice in a competent, ethical, or professional manner; increased malpractice requirements for review from \$350,000 to \$500,000; dismissed investigations from other jurisdictions if the applicant is still in good standing in such jurisdictions; and what disclosures on an IMLC non-SPL application requires Panel review and approval.

Dr. Sticca motioned to approve the draft operations manual as presented, seconded by Dr. Leetun. The motion passed unanimously by roll call vote.

In addition, the Board considered convening a committee to review and provide recommendations on policies regarding referrals to the NDPHP, competency evaluations, and policies on physician sexual misconduct. Drs. Houle, Nagala, and Armstrong agreed to serve on this committee.

Physician Approval of License and Waiver of Interview

Dr. Solberg moved to approve the eighty-six (86) licenses and waivers of interview for physician licensure applicants and one (1) administrative licensure candidate, as presented, seconded by Dr. Sticca. The motion passed unanimously by a roll call vote.

The Board also reviewed seven (7) cases with derogatory information that the chair and executive director did not believe warranted an interview. After review and discussion, Dr. Miller made a motion to approve the seven (7) additional cases and waivers of interview for physician licensure applicants, seconded by Dr. Potluri. The motion passed unanimously by a roll call vote.

Resident Approval of License and Waiver of Interview

Dr. Sticca moved to approve the fifteen (15) licenses and waivers of interview for resident licensure applicants, as presented, seconded by Dr. Houle. The motion passed unanimously by a roll call vote.

Physician Assistant Approval of License and Waivers of Interview

Dr. Houle motioned to approve the licensure and waiver of interview for the eight (8) physician assistants, as presented, seconded by Dr. Leetun. The motion passed unanimously by a roll call vote.

Genetic Counselor Waivers of Interview

Dr. Sticca motioned to approve the licensure and waiver of interviews for the twenty-seven (27) genetic counselors, as presented, seconded by Ms. Reich. The motion passed unanimously by a roll call vote.

IMLC License Granted

The Board received information on twelve (12) Letters of Qualification for State of Principal Licensure and one hundred and one (101) non-principal licenses issued under the Compact. Deputy Director McDonald gave an update on the IMLCC including that – to date – seventy-seven (77) SPLs and five hundred and seventy-nine (579) IMLC licenses have been issued in North Dakota. The IMLCC reported that it would be issuing its 20,000th license within the next month and at this time, twenty-six (26) states are active SPL and issuing licenses, three (3) states are active issuing licenses only, three (3) states are implementing, and nine (9) states have active legislation to implement.

Investigative Panel A report

Dr. Sticca, Chair, reported that Investigative Panel A reviewed a total of twenty-one (21) cases and ten (10) summary matters, and took the following action: three (3) Confidential Letters of Concern were authorized; five (5) cases were tabled for further review; and in one (1)

case a letter would be sent to the Secretary of State's office regarding a previous revocation for licensure, all other cases were dismissed or no action taken.

Investigative Panel B report

Dr. Solberg, Chair, reported that Investigative Panel B reviewed a total of eighteen (18) cases and ten (10) summary matters, and took the following actions: one (1) stipulation was approved, one (1) change to a stipulation was approved, one (1) case would move forward to a formal ALJ hearing, two (2) cases were referred for formal disciplinary action, one (1) Confidential Letter of Concern was authorized, one (1) case was tabled for further review, and eleven (11) cases were dismissed.

Petition for Eligibility – Fahd Arafat, MD

Dr. Arafat is currently an ER physician and licensed in MN with no history of malpractice or discipline. Dr. Arafat graduated from the University of Dammam in Saudi Arabia and completed his internship at Northwestern University in Chicago and residency at the University of Minnesota. He passed the USMLE exams and has a valid ECFMG status. Dr. Arafat is not board certified but has completed 24 of his 30 months of ACGME accredited training in general surgery. NDCC 43-17-18(3)(b) requires 30 months of postgraduate training in US/Canada or, the Board can grant a license if the applicant meets all other requirements for training, has one-year postgraduate training in the US/Canada and is either Board certified or passes the SPEX exam. The office received information that Dr. Arafat did already take and pass the SPEX exam. Dr. Quast made a motion to approve eligibility based on the passing of the SPEX exam, seconded by Dr. Potluri. Motion passed unanimously by roll call vote.

PA-C Adewumi Bakare – petition for independent practice in North Dakota

PA-C Bakare is seeking to practice independently by telemedicine in North Dakota. The Board's policy for approval of physician assistants practicing independently at a "facility or practice approved by the board" pursuant to N.D.C.C. 43-17-02.1(4), requires the independent practice to be provided in rural and underserved areas of North Dakota, as intended by the legislation. Therefore, applicants would need to show proof that the practice serves such areas

with a HPSA score of 10 or above. PA-C Bakare is seeking to practice by telemedicine and therefore could not give a HPSA location score. Furthermore, N.D.A.C. 50-02-15-01 requires that a PA practicing telemedicine must collaborate with a ND licensed physician. PA-C Bakare's collaborating physician is not licensed in ND.

Attorney Hicks went through the options of the Board, including (1) approving the license and independent practice, (2) denying the application for independent practice, and offering PA-C Bakare the option to either update the application or withdraw, or (3) deny the license, keeping in mind a denial is a required reportable event to the databank. The Board discussed that it was the legislative intent for the independent practice to be in North Dakota practicing at a rural/underserved area, not for this telemedicine work, and therefore it would not consider independent telemedicine work at this time. Also, the application also does not meet the requirements of the law as there is no North Dakota licensed collaborating physician.

Dr. Sticca made a motion to deny the independent practice and give the applicant the option to either withdraw the application or update it with a N.D. licensed physician and practice at a licensed facility, seconded by Dr. Solberg. Motion passed unanimously by roll call vote.

Application for PA-C Licensure – Olisa Torske

Ms. Torske is reapplying for a PA-C licensure in North Dakota. Ms. Torske was previously licensed in North Dakota from 2011 to 2013, and thereafter moved to a different state and worked as an RRT and Sleep Tech. She has kept up her NCCPA status, which requires 100 CME's every two years and re-examination every ten years. Ms. Torske last took the exam in December of 2020. The Board discussed options for the applicant and considered treating her as a newly licensed PA, with the requirements of having a written collaborative agreement in place with a physician for the first 4,000 hours and require the collaborating physician to do chart reviews for a year.

PA-C Metzger made a motion to offer a restricted license on the condition that Ms. Torske have a written collaborative agreement and chart reviews for one year, seconded by Dr. Solberg. Motion passed unanimously by roll call vote.

Orders of Completion – Oyetunde Siyanbade, MD

Dr. Siyanbade was disciplined in November of 2019 for removing a patient’s right kidney during a laparoscopic cholecystectomy and ordered to complete either the Comprehensive General Surgery Review Course by the American College of Surgeons or the Surgical Education and Self-Assessment Program, along with a course on the Fundamentals of Laparoscopic Surgery and pay required fees. Dr. Siyanbade provided verification of FLS and SESAP course completions and paid the required fees. Dr. Sticca motioned to approve the Order of Completion, seconded by Dr. Leetun. Motion passed unanimously by roll call vote.

PA Licensure Compact

FSMB developed an initial draft of a Physician Assistant Licensure Compact which was presented to the Board. FSMB is requesting initial comments be submitted by June 14, 2021. PA-C Metzger volunteered to work with the Board office to review the draft compact and send preliminary comments to the FSMB.

COMMITTEE UPDATES

Legislative Committee (Dr. Sticca, Dr. Quast, Dr. Miller)

The Committee reviewed its March 19, 2021, meeting minutes. Dr. Quast motioned to approve the minutes, seconded by Dr. Sticca, motion passed unanimously by the Legislative Committee.

The Committee was formed to review bills filed during the 2021 Legislative Session and provide testimony as determined necessary by the Committee.

With session officially ended for 2021, the Board reviewed and received updates from Dr. Sticca on the outcome of several bills, including SB 2274 which would have expanded the scope of naturopaths in the state of North Dakota to prescribe legend drugs. Dr. Miller testified against the bill in front of the House Committee and the bill was ultimately defeated.

Regenerative Medicine Committee (Dr. Nagala, Dr. Quast, Dr. Leetun)

The Committee reviewed its April 9, 2021, meeting minutes. Dr. Quast motioned to approve the minutes, seconded by Dr. Nagala, motion passed unanimously by the Committee.

The Committee was formed to review guidelines for regenerative medicine practice and make a recommendation to the Board. The Committee reviewed several guidance documents from the FDA, FSMB, and National Institute of Health, along with enforcement actions by the Office of Attorney General against a stem cell clinic that was ultimately shut down in North Dakota for consumer protection and fraud violations. The Committee agreed that the report adopted by the FSMB in April 2018, titled “Regenerative and Stem Cell Therapy Practices – Report and Recommendations of the Workgroup to Study Regenerative and Stem Cell Therapy Practices,” provided comprehensive guidance on the matter. The report was presented to the full Board for approval to be the foundation for guidance in investigations involving regenerative medicine practice complaints.

Dr. Nagala motioned to adopt the report as official guidance, seconded by Dr. Leetun, motion passed unanimously by roll call vote.

FSMB Highlights

FSMB held its annual meeting the last weekend in April. Highlights of the meeting included COVID implications and legislation, both past and present. Congratulations were given to Dr. Nagala who was elected to the FSMB Nominating Committee at the FSMB’s House of Delegates meeting on May 1, 2021. The Board generally discussed a new trend in legislation regarding telemedicine and how some states are moving to a separate licensing system for practitioners only providing telemedicine services. The Board discussed reviewing its laws in this area before the next session for clarification.

Office Matters

Application Requirements: The Board’s office staff presented recommended adjustments to the licensure application requirements to help streamline the process while still maintaining a high standard for licensure to protect the citizens of North Dakota.

The Board first reviewed the requirements for undergraduate verification and reporting on the time between undergrad and medical school. The Board discussed how medical schools already verify the undergraduate education and that no matter what employment/unemployment is reported in between the schooling times, it does not have a bearing on licensure, and instead slows down the licensure process in order to obtain the information. Attorney Hicks cautioned the Board against seeking information that has no bearing on licensure. Dr. Miller motioned to remove this requirement from applications, seconded by Dr. Potluri, motion passed unanimously by roll call vote.

Next, the Board reviewed requirements of listing all employment, privileges, and credentials after medical school. This is done to verify places of employment but can also be extensive for those with lengthy careers, telemedicine work, and locum tenens work. Dr. Nagala motioned to require disclosure of the past ten years of employment, with verification of the last three years, seconded by Dr. Miller, motion passed unanimously by roll call vote.

The Board discussed the requirement of personal references. Currently, the Board requires two personal references fill out a form provided by the Board. The Board received information on states that no longer require references as individuals tend to only pick positive references and little information is ever utilized from the responses. However, there are times where additional information is obtained from the references, which has been helpful in verifying employment and practice. The consensus of the Board was to continue requiring two personal references.

Finally, the Board discussed requirements for receiving copies of medical diplomas and post grad certifications. The Board does require primary source verification from the medical school and post grad training programs, so little information is ever gleaned from the copies of the diploma/certs, which can be easily manipulated. Dr. Leetun motioned to remove this requirement from applications, seconded by Dr. Houle, motion passed unanimously by roll call vote.

FARB 2021 Regulatory Law Seminar: FARB will be hosting its Regulatory Law Seminar September 30 – October 3, 2021, in Nashville, TN. Although an agenda has not been finalized,

the Board should consider whether it would like to attend the seminar that provides relevant and helpful information regarding regulatory boards. An update will be given at the next meeting, along with verification for registration for those who want to attend.

Election of Officers

Dr. Houle nominated Dr. Sticca to serve as Chair for the North Dakota Board of Medicine, seconded by Dr. Miller, motion passed unanimously by roll call vote.

Dr. Potluri nominated Dr. Nagala to serve as Vice-Chair for the North Dakota Board of Medicine, seconded by Dr. Quast, motion passed unanimously by roll call vote.

Ms. Reich nominated Ms. Johnson to serve as treasurer for the North Dakota Board of Medicine, seconded by Dr. Sticca, motion passed unanimously by roll call vote.

Unfinished Business

A sincere thank you to Dr. Solberg for her eight years of service to the Board and to Dr. Leetun for fulfilling a vacant position. The terms of Drs. Solberg and Leetun end on July 31, 2021, and they were given letters from the Governor thanking them for their services. They will be missed as Board members!

It was the consensus of the Board to move the August meeting to be in-person and the November meeting to be via Zoom.

The meeting was adjourned at 11:51 a.m.