

## **NORTH DAKOTA BOARD OF MEDICINE**

**March 18, 2016**

### **Call to order**

The meeting of the North Dakota Board of Medicine was called to order by Chairman Kent Hoerauf, MD, at 8:03 o'clock, a.m., at the board office in Bismarck.

All board members were present: Investigative Panel A – Robert Olson, MD; Rup Nagala, MD; Thomas Carver, DO; Genevieve Goven, MD; Ann Reich; Robert Sticca, MD. Investigative Panel B – Kate Larson, PA-C; Brenda Miller, MD; William Haug, MD; Manuel Colón, MD; Sara Solberg, MD; Vaune Johnson and Chairman Hoerauf.

Staff present: Duane Houdek, executive secretary; Lynette McDonald, deputy executive secretary; Marijo DeMott, recording secretary; and Stacy Moldenhauer, counsel.

Courtney Koeble, NDMA; and Cheryl Ulven, PA-C, NDAPA were also present.

### **Minutes**

Dr. Olson moved the approval of the minutes of the November 20, 2015, meeting of the board, as distributed. Ms. Johnson seconded the motion. The motion passed unanimously.

Dr. Hoerauf asked the board to review the content on page four regarding administrative licenses, as that issue would be discussed later in this meeting.

### **Physicians eligible for waiver**

Ms. Larson, PA-C, moved to approve the list of physicians eligible for waiver of interview. Dr. Haug seconded the motion. The motion passed unanimously.

### **Investigative Panel A report**

Dr. Olson, Chair of Investigative Panel A, welcomed Dr. Sticca to the panel, and reported that the panel reviewed 17 cases. Three cases were referred for legal action, two letters of concern were authorized, one case was referred for further review, one stipulation was approved, and 10 cases were dismissed.

### **Investigative Panel B report**

Ms. Larson, PA-C, chair of Investigative Panel B, reported that the panel reviewed 13 cases. Three cases were referred for legal action, two cases were referred for further review, one letter of concern was authorized, one stipulation was approved, and six cases were dismissed.

### **IPA vs. Marc Eichler, DO**

Dr. Eichler was charged criminally with gross sexual imposition and two counts of luring minors by computer. He signed a non-practice order and a stipulation admitting that the facts underlying the criminal charges support an indefinite suspension of his license.

Dr. Haug moved to approve the stipulation calling for an indefinite suspension of Dr. Eichler's license. Dr. Miller seconded the motion. The motion passed unanimously, with members of Panel B voting.

#### **IPA vs. Mary Beegle, DO**

Dr. Beegle petitions the board for an unconditional license. Her license was suspended on July 23, 2010, for a period of five years, with the condition that the suspension would be stayed if she successfully completed a PHP program approved by the board. As of April 2015, she had successfully completed a PHP program in Missouri.

Dr. Colón moved to approve an unconditional license. Ms. Larson, PA-C, seconded the motion. The motion passed unanimously, with all board members voting.

#### **IPA vs. Kirsten Peterson, MD**

Dr. Peterson petitions the board for an unconditional license. Her license was suspended on April 21, 2009, and reinstated on November 18, 2011, with the condition that she continue with a PHP program in Wisconsin for a period of five years.

Because of earlier participation in the Wisconsin PHP program, that program discharged Dr. Peterson on March 16, 2016, and the Wisconsin medical board issued her an unconditional license on that date.

Dr. Haug moved to approve an unconditional license. Dr. Solberg seconded the motion. The motion passed unanimously, with all board members voting.

#### **IPB vs. Adam Levinson, MD**

Investigative Panel B brought a complaint against Dr. Levinson on December 8, 2015, based on a New York disciplinary action taken against him for taking improper pictures on a subway, for which he was criminally charged.

Dr. Levinson executed a stipulation with this board on January 12, 2016, under which his license would be suspended for one year, with that suspension stayed for five years on the condition that he complies with all aspects of the New York order, which provides for monitoring of his practice.

He also agrees he will not physically practice in North Dakota until this board approves his practice here. He will pay costs of prosecution.

Dr. Goven moved to approve the stipulation. Dr. Olson seconded the motion. The motion passed unanimously, with members of Panel A voting.

### **Matter of Alonna Norberg, MD**

On March 23, 2012, Dr. Norberg signed an agreement not to practice in North Dakota due to a medical disability. This was not a disciplinary matter. One of the provisions of her agreement was that she would be evaluated psychologically and physically prior to her return to practice. She has provided statements from treating physicians that she is medically fit to practice.

We administratively issued her an administrative license for the purpose of taking her specialty board examination. This does not allow her to practice clinically in any manner. Once she has taken her boards, she may apply to the board for a clinical license, at which time the board can order any further assessments of continued competency it deems appropriate.

This did not require board action.

### **Matter of Abhishek Mehta, MD**

Dr. Mehta is requesting to be declared eligible for licensure although he took seven years and 36 days to pass all components of the USMLE.

After reviewing his credentials and experience, the board voted unanimously to consider Dr. Mehta eligible for a license.

### **John Dumbolton, DO**

Investigative Panel B brought a complaint against Dr. Dumbolton on August 22, 2014, for gross negligence in the practice of medicine. A board order was entered on November 21, 2014, approving the terms of a stipulation which provided Dr. Dumbolton would be evaluated for competency at CPEP and comply with all recommendations, as endorsed by the board.

The CPEP evaluation found pronounced deficiencies in medical knowledge which it recommended be addressed in a residency or residency-like setting before he resumes the practice of medicine.

The board reviewed the evaluation and endorsed its conclusions. There was a discussion of whether deficiencies in one area of practice should prohibit practice in another area. Considering that the board licenses to practice medicine, generally, and not by specialty, and that Dr. Dumbolton's deficiencies had relevancy to either family practice or emergency medicine, which are the areas in which he has been trained and has practiced, the board concluded the deficiencies noted would preclude the practice of medicine, generally.

Dr. Goven moved that Dr. Dumbolton's license be suspended until such time that he demonstrates competency through a residency-like training and a post-training evaluation by CPEP to ensure that all observed deficiencies have been remediated. Dr. Nagala seconded the motion. The motion passed unanimously, with all board members voting.

## **Pharmacy Collaborative Agreements**

Dr. Goven reviewed two pharmacy agreements and recommended their approval. The first as an amendment to the Altru agreement that added three physicians. The second was an anticoagulation clinic at CHI St. Alexius – Mandan, which has been approved by the North Dakota Board of Pharmacy.

Ms. Larson, PA-C, moved to approve both agreements. Dr. Olson seconded the motion. The motion passed unanimously.

## **Administrative licenses/CME**

Mr. Houdek reported that he was asked by a holder of an administrative, non-clinical, license if the normal CME requirements applied to those holding only an administrative license. He told the licensee they did.

This raised the issue of whether the board wants to consider a different CME requirement for those with administrative licenses, perhaps allowing some CME to count if it is in furtherance of licensee's job, even if it is not Category I AMA.

After discussion, the board decided to keep the requirements for CME the same for administrative license holders as they are for those holding a general, clinical license.

They directed Mr. Houdek to bring back any state variations on the topic for later consideration.

## **Satisfaction of conditional orders**

Mr. Houdek reported that he issues an administrative order when the technical requirements of a conditional board order have been satisfied, returning the physician to unconditional status. The types of conditions considered technical are, for example, payment of costs, completion of required course work, or other conditions that do not require board discretion to determine whether they have, in fact, been satisfied. This is in contrast to board conditions that do require exercise of the board's judgment, for example, whether a physician is now competent to practice.

He raised the issue to inquire whether the board had any concern with that process.

After discussion, the board, by consensus, instructed Mr. Houdek to continue with the administrative issuance of such orders.

## **PDMP rule**

Mr. Houdek reported that Drs. Olson and Colón and Ms. Reich met by conference call during the last interim and greatly narrowed the issues that arose during the November meeting.

It appears that the issues of signing up will be eased by the PDMP gaining access to the board's database. That process is underway. Also, effort is being made to integrate PDMP with EPIC.

Reviewing the draft rule, it provides:

- everyone with a DEA# must register.
- PDMP must be checked at least annually (this was changed from six months)
- The fact of the PDMP and its assessment must be entered into patient's chart
- Changed language saying check must be done when certain things "are known" to when those things are "documented in the medical record of that patient" (With intent made known that this is documentation entered by the physician prescribing or staff in that office)
- Deleted "family member" as one who may relay concerns about potential abuse that would trigger check
- Deleted violation of prescribing agreement with practitioner

Mr. Houdek was asked to bring the matter back to the board in July, having considered The CDC guidelines on opioid prescribing that just came out, and the Board of Nursing final rule.

### **NDPHP report**

Tammy King gave the report of the North Dakota Professional Health Program. She reported that they had 16 cases, one case was closed with eight new participants enrolled and three more pending.

Ms. King reported that they want to enact a rule providing that anyone with a reported DUI would be monitored for one year with a shorter period of abstinence.

Mr. Houdek noted that current board policy in such cases is to require an evaluation and not take any action if the evaluation did not indicate abuse.

The board ask that the policies be discussed in the context of the next NDPHP report.

### **Audit**

Mr. Houdek reported that the financial audit for 2013 and 2014 has been completed and there were no adverse findings.

### **Educational session**

Dr. Hoerauf informed the board of the resolutions that will be presented at the FSMB meeting in April:

- 1) To create a task force to study physician compounding of drugs

2) To provide model rules to deal with the antitrust issues engendered by the North Carolina dental board case

3) To resolve that physicians should abstain from the recreational use of marijuana, even where legal

Also, there will be a discussion of the interstate medical licensure compact, which has been adopted by 12 states at this point. In essence, when one state vets an applicant and issues a license, every other state in the compact would be required to issue a license upon payment of the license fee, without further vetting.

This board has chosen to wait and see how the funding issues will be resolved before deciding whether to join the compact. We will be a “receiving” state, much more often than not and we need to know whether our funding will be affected, as it is the only source of funding for our disciplinary efforts.

There are qualifications that must be met to be eligible for a license under the compact, including:

- Graduation from an approved medical school
- Passage of each component of USMLE in three attempts
- Successful completion of postgraduate training at approved program (GME)
- Board certification
- Full, unrestricted license in issuing state
- No criminal convictions, as defined
- No disciplinary history in any state
- No DEA suspension or revocation
- No current investigation by any board or law enforcement agency

Participating board would be able to share investigative materials more easily

Than they can now.

Staff will look at licenses we issue and report how many would qualify for compact eligibility.

It was reported that the physician histories contained in the panel summaries are, at times, difficult to read. Mr. Houdek he was using “screen shots”, and will make an effort to make sure these are more clearly presented.

## **Adjourn**

Upon motion by the Chair, second by Dr. Goven and unanimous approval, the meeting was adjourned by Dr. Hoerauf at 11:15 o'clock, a.m.