

NORTH DAKOTA BOARD OF MEDICINE

March 23, 2018

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:

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

Investigative Panel B:

William Haug, Jr., MD, Chair	Present
Kate Larson, PA-C	Present
Brenda Miller, MD	Present
Catherine Houle, MD	Present
Sara Solberg, MD	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 Koebele, representing the North Dakota Medical Assn.; Jay Metzger, PA-C, Deb Houdek, PA-C and Cheryl Ulven, PA-C, representing the North Dakota Physician Assistants. Barrie March, MD, Ann Leiseth and Tammy King representing the NDPHP; Serge Rasskazoff, MD; Jace Kusler MS III; Mike Schmit, MD; Gabriella Balf, MD, NDPS; Beverly Greenwald FNP and Vaseda Hoff, RN representing the ND Medical Spa Association.

Minutes:

Dr. Haug moved to approve the minutes of the November 17, 2017 meeting and the teleconference minutes from the October 18, 2017 and December 8, 2017 meetings, as distributed. Dr. Goven seconded the motion. The motion passed unanimously.

Physician Waiver of Interview:

Dr. Solberg moved to approve the waivers of interview for physician licensure applicants as presented. Dr. Haug seconded the motion. The motion passed unanimously.

Investigative Panel A report:

Dr. Nagala, Chair, reported that Investigative Panel A reviewed 28 cases: five letters of concern were issued, four for prescribing issues and one for quality of care concerns, one case was referred for further review, four stipulations were approved, two cases were referred for action, one for surgical negligence and one for alcohol related issues, and 16 cases were dismissed.

Investigative Panel B report:

Dr. Haug, Chair, reported Investigative Panel B reviewed 26 cases: 19 were dismissed, two were referred for further review, four letters of concern were issued, one for prescribing issues, one for practicing outside the scope of specialty and two for purchasing unapproved products, and one was referred for action for alcohol related issues.

Investigative Panel A vs. Susan DeLap, MD:

Stacy explained the stipulation for approval by the Board. The stipulation was entered into after the Board authorized discipline against Dr. DeLap for falling asleep during a patient session and for failure to record medications in a chart. The stipulation requires her to follow all recommendations of her sleep specialist as well as attending a medical record keeping course.

Dr. Miller made a motion to approve the stipulation which was seconded by Dr. Houle and unanimously approved by the Panel B members of the Board.

Investigative Panel A vs. Kimberly Loveless, DO:

Stacy explained the stipulation which was entered after the Panel authorized a complaint against Dr. Loveless for her DUI conviction. The stipulation requires Dr. Loveless to participate in the PHP for a period of 5 years.

Dr. Solberg made a motion to approve the stipulation which was seconded by Dr. Haug and unanimously approved by the members of Panel B.

Investigative Panel A vs. John Reynolds, MD:

Stacy explained the stipulation which was entered into after Panel A authorized a complaint against Dr. Reynolds for gross negligence in the practice of medicine for failing to communicate the results of a CT scan to a patient. The stipulation requires Dr. Reynolds to attend an ethics course on patient care in correlation with the management of medical records. Additionally, Dr. Reynolds will be required to provide the Board with a detailed summary of all of the procedures and policies that have either changed or were put in place to prevent this from happening again.

Dr. Haug made a motion to approve the stipulation which was seconded by Dr. Houle and unanimously approved by the members of Panel B.

Investigative Panel A vs. Joseph Pearson, MD:

Stacy explained the stipulation which was entered into after Panel A authorized a complaint against Dr. Pearson for failing to respond to the audit request regarding CME compliance. Stacy explained that once Dr. Pearson finally responded he was able to prove he had the required CME. The stipulation dismisses the complaint regarding a failure to comply with CME requirements. However, the stipulation does charge Dr. Pearson the costs associated with fees the Board incurred in attempting to get his response.

Dr. Houle made a motion to approve the stipulation which was seconded by Dr. Solberg and approved unanimously by the members of Panel B.

Matter of Lorraine Tangen, MD:

Bonnie updated the Board on the reporting which was required by Dr. Tangen. The 90-day report was given to the Board and the 180-day report will be reviewed in July. No action was taken.

Matter of Jack Mutnick, MD:

Dr. Mutnick was an applicant that was interviewed due to discipline taken in Minnesota. The Board had decided he would be allowed a license so long as he was participating in the PHP to address issues pertinent to his Minnesota action. Bonnie explained that Dr. Mutnick has not made contact since he was informed that he would be required to participate in the PHP as a condition of licensure in ND. The question before the Board was do we allow Dr. Mutnick to withdraw his application for licensure or do we move forward with issuing a conditioned license.

Dr. Nagala made a motion to allow Dr. Mutnick to withdraw his application which was seconded by Dr. Goven and unanimously approved by the Board.

Matter of Serge Rasskazoff, MD:

Lynette provided an explanation of Dr. Rasskazoff's situation and whether he should be approved for licensure. He meets all other requirements except the ECFMG certification. He did his training in Canada and took another acceptable licensing exam (LMCC). Dr. Rasskazoff would qualify for licensure under our exception to technical requirements. Dr. Rasskazoff was present at the meeting and able to answer questions of the Board.

Dr. Goven made a motion to grant licensure which was seconded by Ann Reich and unanimously approved by the board.

Matter of Jeremy Alderfer, MD:

Bonnie explained that Dr. Alderfer applied to renew his license just before the three-year limit was to expire. However, in his application he made admissions that caused concern that should be reviewed by the full board. The issues that were disclosed took place during a time his license was lapsed. The Board would not have jurisdiction to take any action on the actions that were admitted. There was discussion about the information Dr. Alderfer provided to the Board regarding the admissions made.

Dr. Haug made a motion to have Dr. Alderfer obtain a substance abuse evaluation which was seconded by Dr. Carver and approved unanimously by the Board. The Board clarified that his application would not have to start over after the evaluation.

Resident Application (2) and 7-year USMLE Rule:

Dr. Olson explained that there are two residents that were in violation of the 7-year rule. There was an oversight in the program and by the residents. There was discussion that there is no exception to this rule other than retaking Step 1 of the exam. There was further discussion that it would be a good practice for the Board to send a reminder of these rules to the residents and the program coordinators.

There was a discussion of the need to address again in July and possibly revisit the rule.

Physician Drug Monitoring Program:

There was no action taken. Bonnie attended the last meeting and noted things are moving along nicely. We will be adding a certification statement on renewals that our licensees will be following the PDMP rule. There was discussion regarding whether licensees must register through the PDMP if they have access through NDHIN and EHR links. The Board requested to have Mark Hardy attend the next meeting to answer some questions regarding the question of registration within EHR's and if you are registered in ND can you be linked to Minnesota.

Dr. Miller volunteered to attend the meeting on June 14th as Dr. Goven will be out and Bonnie will be attending a conference during that time.

NDMA Resolution 2:

Courtney Koebele from the ND Medical Association spoke to the board about a resolution the association passed regarding practice in ND for sports team physicians that are not licensed in ND and allowing them to treat the team when they are in ND. This would not include any prescriptive rights. Courtney wanted to provide the Board with the resolution as it would likely be presented at the Legislative session.

Board Interview; Roland Vernon, MD:

The interview was led by Dr. Sticca. There were questions regarding previous malpractice claims and previous employment.

Dr. Haug moved to approve a license for Dr. Vernon which was seconded by Dr. Nagala and unanimously approved by the Board.

NDPHP Letter:

Bonnie explained the letter that was sent by herself, Dr. Olson, and Stacy regarding the selected individual to replace Dr. March. There was concern regarding the individual that was selected as being problematic in further effective communication with the NDPHP. Does the Board feel that something should be built into the contract requiring that employees of the PHP be free from monitoring for a period of time prior to being offered a position with the PHP. There was discussion that a mandated PHP participant should not be deemed as qualified to lead the PHP program.

Members of the NDPHP Board also provided input on the candidate they selected.

NDPHP Agreement:

Bonnie and Stacy explained the changes they made to the contract for the PHP. There was discussion of how long should a person be unmonitored before being placed in a position with the PHP. The board discussed a number of years, five or ten, as well as will the language

specify free from any discipline for the set number of years. Also discussed was should we differentiate between voluntary participants vs. board ordered participants. The Board discussed five years seems like a good measure of time to be unmonitored prior to being a medical director of the PHP.

The Board also discussed the funding of the PHP. There was discussion of the amount of a surcharge that would be needed to not drain the finances of the Board. A surcharge would need to go through the legislative rules process.

A motion was made by Dr. Sticca that we provide funding for a period of three years at 26,000.00 per month and simultaneously pursue a surcharge on the annual licensing fee to offset costs of the PHP. The motion was seconded by Dr. Chemiti and was passed unanimously by the Board.

A motion was made by Dr. Sticca to adopt the proposed agreement with the changes presented with the time period of five years rather than ten years after participation with the PHP program.

There was discussion regarding the agreement with the approved changes and that they would be sent to the PHP for their review. There was additional discussion that the PHP committee could meet with the PHP Board to work on the agreement before the July meeting to expedite the agreement process.

NDPHP Report:

Tammy King and Dr. Barrie March discussed the PHP report and the changes made to the report as requested by the Board. Dr. Olson thanked the members of the PHP for the changes made to the reports they send to the Board. There are currently 24 active clients, nine of who are board ordered. Eleven (11) participants are being monitored out of state and 13 participants are being monitored in the state by the NDPHP.

There was discussion of a report the PHP submitted to the Board regarding a resident. The discussion centered on the fact that no action could be taken by the Board as the report was received after the resident was no longer a licensee of our Board.

The PHP submitted a petition to release Dr. Schmit from PHP participation as he has completed his five years. Dr. Sticca made a motion to approve the release of Dr. Schmit which was seconded by Dr. Goven and approved unanimously by the Board.

Disapproved Medical Schools:

Lynette explained the Board's history regarding disapproved medical schools. We previously had a list that we followed but the list was removed. We are always receiving questions regarding what we follow. The discussion centered on whether the Board wants to have a policy regarding this issue.

Dr. Goven made a motion to make a policy to use CAAM-HP listing moving forward. The motion was seconded by Dr. Solberg and passed unanimously by the board.

Letter from FBI on Interstate Medical Licensure Compact:

Bonnie provided a letter she received which states that the FBI issue with the compact seems to have been resolved and would not pose a problem for the Compact if it were approved in ND. No action taken.

Letter from the Department of Health on Ultra-High Dose Unit Opioids:

Bonnie provided a copy of a letter the Board received from the Department of Health regarding their support for removal of ultra-high dose unit opioids from the market.

Application Renewal Questions:

Bonnie discussed the work of the Questionnaire Committee and presented the suggested changes to the physician licensure application as well as the renewal questionnaire for physicians.

Dr. Houle made a motion to adopt the suggested changes to the questionnaires as suggested by the committee. Dr. Miller seconded the motion and the motion was passed unanimously by the Board.

Physician Assistant Discussion:

Kate Larson PA-C introduced the PA's present and opened the discussions regarding new things coming forward from the National Academy of PA's. Jay Metzger PA-C provided information to the Board regarding the changes being seen nationally for PA's. He stated the big discussion involves the supervision of PA's and the lack of willing physicians to agree to supervise PA's. The ND Academy of PA's adopted the Optimal Team Practice which would give them the ability to practice without an agreement with a specific physician. He states in this way decisions would be made collaboratively regarding patient care.

Certified Surgical Assistants Update:

Bonnie provided an update on the issue that was previously discussed. Bonnie stated that after her discussion with the Board of Nursing and the Department of Health she learned that neither entity felt they were appropriate to be a licensing body for this type of licensure. It appears this is a push from the Joint Commission to the facilities and is perhaps best left with the facilities to address with the Legislature.

The Board asked Bonnie to send letters to the larger facilities in the state to see if in fact they see this as a problem and if so what are the solutions they would like to see.

Statement on Physicians Dispensing for Physicians or Their Family:

Bonnie provided the updated statement to the Board which was discussed at a prior meeting. Dr. Nagala made a motion to add this statement to our website. Dr. Houle seconded the motion which was passed unanimously by the Board.

ND Licensed PA's at IHS Facilities:

The Board has handled this in different approaches in the past. Bonnie sought clarification from the Board as to their wishes regarding practice in this instance. Kate Larson PA-C was going to seek additional information from the VA and get back to the Board.

Approval of Revised Budget:

The revised budget was submitted showing the change in the PHP funding. Dr. Houle made a motion to approve the amended budget which was seconded by Dr. Haug and unanimously approved by the Board.

Office Matters:

Technology Needs: Bonnie provided the board with a quote from AVI to allow us the ability to video conference. The Board discussed the added flexibility this technology would allow. The discussion was tabled until a final decision is made on the current lease.

Debt Collection: Bonnie discussed the lack of policy and pursuit of unpaid fees from disciplinary cases.

Investments: The Board reviewed the latest investment report. Dr. Nagala discussed the current allocation being very conservative and did the Board want to consider being more aggressive? The consensus was that the current allocation be maintained.

Current Lease: Bonnie provided a list of properties from a realtor. Bonnie sought additional direction from the Board as to what they would like to do regarding the current lease. The Board suggested the staff explore what works best for the office. Dr. Nagala agreed to be a liaison in looking at lease space.

Unfinished Business:

Bonnie and Dr. Miller shared the telemedicine rule left after the Administrative Rules Committee struck a portion of the rule we put forth. The Rules Committee stated this should go through legislation rather than through rule. Bonnie advised the Board of their right to object to the action taken by the committee. The Board can discuss this further as we get closer to the Legislative session.

Adjournment:

Dr. Haug moved to adjourn the meeting. Dr. Goven seconded the motion. The motion passed unanimously.

Dr. Olson adjourned the meeting at 1:02 p.m.