

NORTH DAKOTA BOARD OF MEDICINE

April 28, 2023

Regular Meeting

Call to Order:

Robert Sticca, MD, chair, called the meeting to order at 8:00 a.m. In attendance:

Robert Sticca, MD, Chair
Rup Nagala, MD, Vice-Chair
Misty Anderson, DO
Lacey Armstrong, MD
Zena Homan, MD
Justin Horner, MD
Catherine Houle, MD
Mandi Johnson, MD
Vaune Johnson
Robert Kemp, MD
Jay Metzger, PA-C
Ann Reich
Michael Quast, MD

Also present: Sandra DePountis, Executive Director; Lynette McDonald, Deputy Executive Director; Stacy Moldenhauer, Litigation Counsel; and Allyson Hicks, General Counsel.

NDPHP representatives present: Ann Leiseth, Executive Director; Dr. Missy Henke, Medical Director; until the PHP Contract Discussion.

Barbara Andrist – applicant for a public member position with the Board.

The following were present for their respective interviews/cases via Zoom: Paulette Lassiter, MD; Raul Parra, MD; Parvez Fatteh, MD; Matthew Packham, MD; Robert Dill, PA-C; Keith Ryan, MD; and Temp Patterson, MD.

Minutes

Dr. Kemp moved to approve the January 27, 2023, regular meeting minutes, seconded by PA-C Metzger, motion passed unanimously.

Physician Approval of License and Waiver of Interview

Dr. Anderson moved to approve the one hundred and fourteen (114) licenses and waivers of interview for physician applicants including the twelve (12) cases with derogatory information, as presented, seconded by Ms. V. Johnson. The motion passed unanimously by roll call vote. (Due to technical difficulties, Dr. Nagala was not able to participate in the vote).

Physician Assistant Approval of License and Waivers of Interview

PA-C Metzger motioned to approve the licensure and waiver of interview for the ten (10) physician assistants, as presented, seconded by Dr. Houle, motion passed unanimously by roll call vote. (Due to technical difficulties, Dr. Nagala was not able to participate in the vote).

Genetic Counselor Waivers of Interview

Ms. A. Reich motioned to approve the licensure and waiver of interviews for the twenty-one (21) genetic counselors, as presented, seconded by Dr. Homan, motion passed unanimously by roll call vote. (Due to technical difficulties, Dr. Nagala was not able to participate in the vote).

IMLC License Granted

Fourteen (14) Letters of Qualification for State of Principal Licensure and two hundred and nineteen (219) non-principal licenses were issued under the Compact.

North Dakota Ethics Commission

Rebecca Binstock, Executive Director of the Commission, presented to the commission on gifting and conflict of interest rules applicable to the Board.

Interview for Licensure – Paulette Lassiter, MD

Dr. Lassiter is a psychiatrist seeking to obtain licensure to expand her clinic services from western Montana into Eastern North Dakota via telemedicine. Dr. Lassiter's privileges were revoked in 2016 by the US Army for boundary violations which resulted in the subsequent revocation of her North Carolina license. Since then, after obtaining recommended treatment,

Acumen has found her rehabilitated and safe to practice. Dr. Lassiter has been working in Montana since 2019 with the clinic and licensing board reporting no issues or concerns. Dr. Armstrong led the interview for this applicant. Dr. Lassiter answered further questions regarding her past, rehabilitation, and intentions for practice in North Dakota.

Dr. Nagala made a motion to grant the license, seconded by Dr. Armstrong, motion passed unanimously by roll call vote.

Interview for Licensure – Raul Parra, MD

Dr. Parra is a board-certified urologist reporting two malpractice cases in the last five years with settlements greater than \$500,000 and therefore, as Board policy, was required to interview. Dr. Sticca led the interview for this applicant. Dr. Parra answered further questions on the cases and subsequent changes to practice to avoid future issues.

Dr. Anderson made a motion to issue the license, seconded by Dr. Sticca, motion passed unanimously by roll call vote.

Interview for Licensure – Parvez Fatteh, MD

Dr. Fatteh is a board-certified physical medicine and rehab physician. Dr. Fatteh's history reveals a civil settlement for Medicaid Healthcare Fraud for submitting claims to Medicare for unlicensed physician and occupational therapists from 2013-2015 and also a misdemeanor conviction for receiving a rebate for referring a patient to a pharmacy with explanation of accepting a payment from a vendor company as a buyout of accounts receivable that was deemed a rebate. The misdemeanor was a deferred imposition of sentence in which the guilty plea was later withdrawn. Texas and California took disciplinary action on Dr. Fatteh's license for each of these instances. Dr. Fatteh's CA license is currently on probation. Dr. Kemp led the interview for this applicant. Dr. Fattah answered further questions on the two instances and modified practices implemented to avoid such issues in the future.

Dr. Kemp made a motion to issue the license, seconded by Dr. Johnson, motion passed with Ms. A. Reich and Ms. V. Johnson voting no and all other members voting yes.

Interview for Licensure – Matthew Packham, MD

Dr. Packham is a board-certified OBGYN physician reporting one malpractice case in the last five years with a settlement greater than \$500,000 and therefore, as Board policy, was required to interview. Dr. Packham also failed to report the malpractice to Idaho Board of Medicine resulting in a fine. Dr. Homan led the interview for this applicant. Dr. Packham answered further questions on the case and subsequent changes to practice to avoid future issues.

Dr. Houle made a motion to issue the license, seconded by Dr. Homan, motion passed unanimously by roll call vote.

Interview for Licensure – Keith Ryan, MD

Dr. Ryan is back for a follow up interview from the October 21, 2022, meeting. At that meeting, the Board questioned Dr. Ryan on his history which included two criminal assault charges from 2019 and 2022, termination of employment from Avera St. Luke's in South Dakota, and suspension of his South Dakota medical license. An Acumen assessment reported Dr. Ryan unsafe to practice. The Board voted to table rendering a decision on the application in order to give Dr. Ryan time to implement and comply with the Acumen recommendations and obtain an evaluation showing fitness to practice. Dr. Ryan has since implemented recommendations from the NDPHP based on the Acumen assessment and has verification for safety to practice. Dr. Quast led the interview for this applicant.

At 9:24 a.m. the Board moved into Executive Session to discuss confidential diagnosis and treatment records of Dr. Ryan pursuant to 42 CFR Part 2 and N.D.C.C. section 44-04-18.23. All Board members, Director DePountis, Deputy Director McDonald, Attorneys Moldenhauer and Hicks, Dr. Ryan, and Dr. Henke and Ann Leiseth from the NDPHP were in attendance.

The Executive Session adjourned at 9:43 a.m.

Dr. Houle made a motion to issue a license conditioned on participation with the PHP program for five years, seconded by Dr. Sticca, motion passed by roll call vote with Ms. V. Johnson voting no and all other members voting yes.

IPA v. Temp Patterson, MD – Petition for Reinstatement

Dr. Patterson's North Dakota license was suspended by Order dated March 27, 2020, for conviction of a felony and dishonorable, unethical, or unprofessional conduct, after pleading guilty to a felony count of Receipt of and Delivery of Misbranded Devices – stemming from incidents in which Dr. Patterson utilized non-FDA approved breast implants for breast augmentation services without informing his patients. Dr. Patterson is now petitioning the Board for reinstatement. Although he did not practice from September 2019 to March 2023 as he had no license, he has since obtained a conditional license in Oklahoma and has been practicing at a charitable clinic. His Oklahoma license is on probation until 2025 and restricts Dr. Patterson's practice to otorhinolaryngology and all workplace settings need to be approved by the Board prior to employment. Dr. Patterson has not submitted a completed application at this time.

Applicants who have not practiced in a clinical setting for two or more years immediately preceding their application date, but meet all other requirements for licensure, shall be presented with the following options:

1. Obtain an administrative license under N.D.A.C. 50-02-02.1;
2. Obtain a competency evaluation or reentry to clinical practice from the Center for Personalized Education for Physicians (CPEP);
3. Pass the SPEX examination from the Federation of State Medical Boards; or
4. Interview with the Board at its next regularly scheduled meeting.

Dr. Patterson chose option (4) and is interviewing with the Board.

Dr. Patterson answered questions on his intentions for future practice and wanting to obtain board certification.

Dr. Quast made a motion that Dr. Sticca review a proposed re-entry to practice plan from Dr. Patterson and upon approval of such plan and on receiving a completed application, a committee (made up of Drs. Quast, Sticca, and Homan) review the license to determine

whether to issue, condition, or deny a provisional license, seconded by Anderson, motion passed unanimously by roll call vote.

Interview for Licensure – Robert Dill, PA-C

PA-C Dill reported a 2012 domestic violence charge in which his Colorado license was placed on probation, and he was required to work with the Colorado PHP for five years, which has since been completed. Colorado again took disciplinary action against PA-C Dill's license in 2020 after PA-C Dill inappropriately accessed phentermine from the workplace for a family member, resulting in five years' probation. PA-C Metzger led the interview for this applicant.

PA-C Dill discussed his prescribing of the controlled substance to his wife and his lack of emergency room experience for the past eight to ten years.

PA-C Metzger made a motion to issue a conditional license – conditioned upon participation with the NDPHP and having a supervising physician with PA-C Dill in the ER for three months. Motion failed for lack of a second.

Dr. Homan made a motion to deny the license pursuant to N.D.A.C. section 50-03-01-11(24) – the imposition by another state of disciplinary action against a license based upon acts or conduct by the physician assistant that would constitute grounds for disciplinary action and (22) the prescribing, administering, distributing, or giving to one's spouse any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug, seconded by Dr. Anderson, motion passed unanimously by roll call vote.

Petitions for Eligibility to Practice

Karim Sadak, MD

Dr. Sadak is seeking an exception under N.D.A.C. 50-02-11-03.1(2) after four attempts to pass Step 1 of the USMLE. Dr. Sadak is licensed in MN with no disciplinary action, ABMS board-certified in Pediatrics and Pediatric Hematology, and has practiced for over ten (10) years. Dr. Anderson made a motion to grant the exception to Dr. Sadak and approve the license, seconded by Dr. Kemp, motion passed unanimously by roll call vote.

Investigative Panel A report

Dr. Quast, Chair, reported that Investigative Panel A reviewed a total of twenty-two (22) cases: four (4) confidential letters of concern were authorized, one (1) case was tabled for further review, all other cases dismissed, or no action taken.

IPA voted unanimously to approve Dr. Quast as Chair and Dr. Armstrong as Vice-Chair of the IPA.

Investigative Panel B report

Dr. Houle, Chair, reported that Investigative Panel B reviewed a total of twenty-two (22) cases: three (3) confidential letters of concern were authorized, two (2) cases were tabled for further review, one (1) case was ordered for evaluation and non-practice agreement; all other cases dismissed, or no action taken.

IPB voted unanimously to approve PA-C Metzger as Chair and Dr. Johnson as Vice-Chair of the IPB.

NDPHP Report

Dr. Henke, NDPHP Medical Director, reported thirty-seven (37) active participants in the NDPHP – nine (9) are Board ordered with PHP primary monitoring six (6) and three (3) collaborating; twenty-four (24) as voluntary with PHP primary for nineteen (19) and five (5) collaborating, and four (4) pending cases. NDPHP is primary for a total of twenty-five (25) participants.

PHP Financials

At the January 2023 meeting, the PHP provided information that they are in the process of implementing new policies and procedures and accounting principles with accounts receivable to obtain and track the billing. The PHP provided their most recent statements through February 2023 in which the financials had not been changed or broken out to account for multiple accounts/expenditures and also no updates were made to the accounts receivable.

PHP provided a 2023 draft budget which the Board questioned as it was over \$50,000 over budget. The Board also questioned the proposed \$80,000 budgeted for marketing costs and whether there is any evidence to support the previous marketing campaigns accurately targeted the clientele.

The PHP audit is scheduled for May 22, 2023.

PHP Contract Discussion

The BOM/PHP contract is set to expire June 1, 2023. Dr. Houle made a motion to exercise the three-month extension under the current contract, seconded by Dr. Nagala, motion passed unanimously by roll call vote.

Ms. V. Johnson made a motion to enter executive session to discuss contract terms under N.D.C.C. section 44-04-19.1 for negotiation strategy and attorney consultation, seconded by Dr. Johnson, motion passed unanimously by roll call vote. The executive session began at 11:22 a.m. and in attendance were all Board members, Director DePountis, Deputy McDonald, and attorneys, Hicks and Moldenhauer.

The executive session ended at 11:58 a.m. No final action was taken upon reconvening the public portion of the meeting.

COMMITTEE REPORTS

PHP Committee Update (Drs. Armstrong [chair], Houle, Homan, and Johnson)

Dr. Houle motioned to approve the Committee's April 5 and April 26, 2023, meeting minutes, seconded by Dr. Armstrong. Motion passed unanimously by Committee members.

Dr. Armstrong provided an overview of the PHP Committee meetings. The Committee discussed the implementation of SB 2098 moving students under the finances provided by the Board. No new policies and procedures were provided but updates to policies were discussed. PHP reported it has a schedule in place for moving forward with updating policies in the hopes of obtaining accreditation from the FSPHP.

Laws/Rules/Legislative Committee (Drs. Sticca, Quast, Anderson, and Horner, and PA-C Metzger).

Dr. Anderson provided a Legislative update including the final passage of three bills the BOM was directly involved in: SB 2115 (amending N.D.C.C. chaps. 43-17 and 43-17.1); SB 2098 (amending N.D.C.C. chap. 43-17.3), and SB 2221 (moving naturopaths to the BOM and implementing prescriptive authority under certain parameters). These bills passed with an effective date of August 1, 2023.

Bills otherwise opposed by the Board all failed except for SB 2249 which was heavily amended to now grant the Labor Commissioner the authority to study Boards to come up with strategies for expedited licensure and looking at justification for continuing education requirements and providing authority for the Labor Commissioner to recommend legislation to implement the strategies. The Board office will work with the Labor Commissioner to provide information and education on Board processes and laws that address these topics.

The Board discussed utilizing the LRL Committee to begin implementation of the formulary for naturopaths to be put into Administrative Code. Dr. Armstrong will join the committee for this discussion.

Finance Committee (Ms. V. Johnson [chair], Dr. Kemp, PA-C Metzger)

No new meeting occurred during the interim.

IT Committee (Drs. Nagala [chair], Johnson, Quast, and Ms. A. Reich).

No new meeting occurred during the interim.

FSMB Draft Policy for Prescribing Opioids for the Management of Pain

The Board reviewed the proposed policy from the FSMB and determined it would not submit any comments or take a position on the proposed policy at this time.

Board Leadership Positions

Dr. Sticca made a motion to appoint Dr. Houle as the next chair of the Board, seconded by PA-C Metzger, motion passed unanimously.

The Vice-Chair and IMLC Commissioner positions will be discussed at the next meeting.

Office Matters

FSMB Annual Meeting: The FSMB is holding its annual conference on May 4-6, 2023, in Minneapolis. Director DePountis, Deputy Director McDonald, Chair Sticca, Vice-Chair Nagala, and Board members Drs. Quast and Homan are attending.

Dr. Sticca FSMB Leadership Award: The FSMB gives out three awards every year and this year, the award for outstanding leadership is being presented to Dr. Robert Sticca for his work as Board chair these last two years. This is the first time an individual from North Dakota has received one of these prestigious awards and congratulations were given to Dr. Sticca – along with thanks for all his work and dedication to the Board for the past eight years.

Outgoing Board Members. As this was the last in-person meeting for the outgoing Board members, plaques and thanks were given to Ms. A. Reich, Ms. V. Johnson, Dr. Sticca, and Dr. Nagala.

The meeting was adjourned at 12:19 p.m.

Sandra DePountis

Sandra DePountis
Executive Director