

NORTH DAKOTA BOARD OF MEDICINE

October 27, 2023

Regular Meeting

Call to Order:

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

Catherine Houle, MD – Chair
Michael Quast, MD – Vice Chair
Misty Anderson, DO (via Zoom)
Barbara Andrist (via Zoom)
Lacey Armstrong, MD (via Zoom)
Stephanie Barth
Bree Dewing, MD
Zena Homan, MD (via Zoom)
Justin Horner, MD (via Zoom)
Mandi Johnson (via Zoom)
Robert Kemp, MD (via Zoom)
Grant Lannoye, PA
Lezlie Link, ND (via Zoom)
Jay Metzger, PA
Troy Pierce, MD

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

NDPHP representatives present: Beth Stroup-Menge, Interim-Director; Dr. Missy Henke, Medical Director; and Ryan Messer, CPA; present through the PHP agenda item.

Courtney Koebele, NDMA.

The following were present for their respective interviews/cases: Carl Green, PA (via Zoom); Nadia Azuero, MD (via Zoom); Stephen McDonough, MD; Temp Patterson, MD (via Zoom).

Minutes

PA Metzger moved to approve the July 28, 2023, regular meeting minutes, and the August 8, 2023, special meeting minutes, seconded by Dr. Johnson, motion passed unanimously.

Physician Approval of Licenses

Dr. Pierce moved to approve the one hundred and twenty-nine (129) licenses and waiver of interviews for physician applicants as presented, seconded by Dr. Dewing, motion passed unanimously by roll call vote. Dr. Dewing moved to approve the fourteen (14) cases with derogatory information, as presented, seconded by Dr. Kemp, motion passed unanimously by roll call vote.

Resident Approval of Licenses

Dr. Anderson moved to approve the two (2) licenses and waiver of interviews for resident applicants, as presented, seconded by Dr. Johnson, motion passed unanimously by roll call vote.

Physician Assistant Approval of Licenses

PA Metzger moved to approve the twenty-two (22) licenses and waiver of interviews for physician assistants, as presented, seconded by Dr. Dewing, motion passed unanimously by roll call vote.

Genetic Counselor Approval of Licenses

PA Metzger moved to approve the twenty-one (21) licenses and waiver of interviews for genetic counselors, as presented, seconded by Dr. Homan, motion passed unanimously by roll call vote.

IMLC License Granted

Twenty-two (22) Letters of Qualification for State of Principal Licensure and one hundred and fifty-nine (159) non-principal licenses were issued under the Compact. Deputy Director McDonald provided updated statistics on licenses issued via the compact since its adoption in 2017 which included one-hundred and sixty-three (163) Letters of Qualification issued, and two thousand and eight (2,008) non-state of principal licenses issued – accounting for a total of two thousand one-hundred and seventy-one (2,171) licenses issued through the Compact. In 2022, 61% of physician licensure in North Dakota occurred through the Compact.

NDPHP Presentation and Report

Dr. Henke, NDPHP Medical Director, provided a presentation to the Board members on the policies and procedures for the day-to-day operations of the PHP. She answered questions on how evaluations are obtained and how monitoring agreements are built around the evaluation and treatment recommendations.

Ms. Stroup-Menge provided an update on the status of the PHP office since the implementation of the new contract and the search for a new executive director including moving forward with new policies and procedures, recruiting new board members, and updates to the Board's financials/accounting systems. Mr. Messer, a CPA, was hired by the PHP to aid in this endeavor and he answered questions on the updates being made to implement best accounting practices and the suggestions from the past audit. New methods are being created to track accounts receivable and the billing and payments of the participants, with one centralized account moving forward. Financial policies will be brought forth to the PHP Board for review and approval prior to implementing these standards within the office.

Dr. Henke reported thirty-three (33) active participants in the NDPHP – nine (9) are Board ordered with the PHP and twenty (20) are voluntary.

PA Metzger made a motion to appoint Stephanie Barth as the ex-officio member of the Board of Medicine to sit on the PHP Board of Directors as required by contract, seconded by Dr. Dewing, motion passed unanimously by roll call vote.

Interview for Licensure – Carl Green, PA

PA Green holds an active license in Kansas and is currently NCCPA certified. However, PA Green has not practiced clinically since July 2021. PA Metzger led the interview of this applicant.

PA Green provided information on how he has kept up on his clinical skills – including currently taking his online recertification board exam for NCCPA and keeping up with required CME.

PA Metzger made a motion to grant the license, seconded by Dr. Anderson, motion passed unanimously by roll call vote.

Interview for Licensure – Nadia Azuero, MD

Dr. Azuero is a family practice physician currently licensed in Kentucky, Florida, and Texas. Dr. Azuero attended residency at Baptist Health Deaconess from July 2019 to April 2022. During the residency, she was placed on probation and improvement plans until she was ultimately terminated in March 2022. She has no other residency training. Dr. Azuero is currently doing locum tenens work in various jurisdictions. Dr. Kemp led the interview for this applicant.

Dr. Azuero answered questions on the circumstances surrounding her time in residency and other work history showing no concerns, malpractice, or discipline. Dr. Kemp made a motion to issue the license, seconded by Dr. Pierce, motion passed unanimously by roll call vote.

Interview for Licensure – Stephen McDonough, MD

Dr. McDonough is seeking a return to practice after not practicing clinically for over two years. Previously, Dr. McDonough practiced as a pediatrician in various locations since his licensure in North Dakota in 1980. Dr. McDonough presented a reentry to practice plan including being proctored by another pediatrician at McKenzie County Health in Watford City. He has completed 95 out of 98 hours of his proctorship. He also submitted proof of over 60

hours of recently completed CME. Dr. McDonough's regular license expired 2/27/2022 at which time he was granted a Special Emeritus Certification. Dr. Horner led the interview for this applicant.

Dr. McDonough answered questions on his extensive work history and reason for coming out of retirement to help the rural community of McKenzie County. He answered questions on proctored hours already obtained along with additional CME. Dr. Horner made a motion to convert Dr. McDonough's Special Emeritus Certification Status to "inactive-expired" – allowing Dr. McDonough to immediately renew his license without needing to reapply, seconded by Dr. Kemp, motion passed unanimously by roll call vote.

Interview for Licensure – Temp Patterson, MD

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 did not practice from September 2019 to March 2023 as he had no license but has since obtained a conditional license in Oklahoma. 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 petitioned the Board for reinstatement during its April 28, 2023, regular meeting. At that meeting, due to Dr. Patterson not practicing clinically for several years, the Board tabled making a decision on the issuance of a license until Dr. Patterson submitted a reentry to practice plan and a completed application. Authority was given to a Credentialing Committee to review the reentry plan and determine whether to issue, condition, or deny a provisional license.

The Credentialing Committee met on September 1, 2023, to review information submitted by Dr. Patterson. At that time, Dr. Patterson was unable to find a proctor. The Committee felt the proposed reentry plan was more a recitation of guidelines and was not

specific enough to show a concrete plan or timeline. The Committee voted to table the action and allow Dr. Patterson one more opportunity to create a more detailed plan to be reviewed by the Board at the October meeting.

Dr. Patterson submitted a new reentry plan with the name of a proctor, along with information on pending employment with the Oklahoma State Board of Corrections. Dr. Homan led the interview of this applicant.

Dr. Patterson answered questions on how he has no intention to ever practice cosmetic surgery in the future and instead would like to focus on ENT and primary care. Dr. Patterson also discussed additional CME he obtained in the past few years to help maintain clinical skills.

Dr. Homan made a motion to deny the license and allow Dr. Patterson to come back to reapply after a year of practice in Oklahoma, seconded by Dr. Pierce. Voting in favor: Ms. Andrist, Dr. Homan, Dr. Kemp, and Dr. Houle. Voting against: Dr. Anderson, Dr. Dewing, PA Lannoye, Dr. Pierce, Dr. Armstrong, Dr. Quast, Ms. Barth, Dr. Horner, Dr. Link, Dr. Johnson, and PA Metzger. Motion failed.

Dr. Anderson made a motion to issue a conditional license to limit Dr. Patterson's practice to ENT work. Motion failed for lack of a second.

PA Metzger made a motion to grant a conditional license in which Dr. Patterson's practice would be limited to ENT and primary care medicine at a licensed health care facility under the proctoring plan approved by the facility which must include quarterly chart reviews and direct supervision of any surgical procedures. Dr. Patterson must also submit CME obtained during the past two years. Dr. Quast seconded the motion, motion passed unanimously by roll call vote.

Petitions for Eligibility and Completion

- Sanjay Shroff, MD

Dr. Shroff is a family practice physician seeking eligibility to practice under North Dakota Administrative Code 50-02-02-01(2) as uniquely qualified through training or experience or will make a unique or special contribution to the practice of medicine, but who does not meet all technical requirements for licensure – in this case, failure to meet the postgraduate training requirements of North Dakota Century Code section 43-17-18. Dr. Shroff is licensed in Ontario and is Canadian Board Certified in Family Medicine. He passed the LMCC exam which is an acceptable licensing exam for licensure in North Dakota. He has no discipline in his history.

Dr. Kemp made a motion to grant the petition for eligibility for licensure, seconded by Dr. Anderson, motion passed unanimously by roll call vote.

- Gaston Oumarou, MD

Dr. Oumarou is a neurosurgeon seeking eligibility to practice under North Dakota Administrative Code 50-02-02-01(2) as uniquely qualified through training or experience or will make a unique or special contribution to the practice of medicine, but who does not meet all technical requirements for licensure – in this case, failure to meet the postgraduate training requirements of North Dakota Century Code section 43-17-18. Dr. Oumarou holds licenses in Canada, Switzerland, and England and is European Board Certified in Neurosurgery. He passed both the USMLE and LMCC licensing exams. He has no discipline in his history.

Dr. Pierce made a motion to grant the petition for eligibility for licensure, seconded by Dr. Dewing, motion passed unanimously by roll call vote.

- Asad Hussain, MD

Dr. Hussain is a psychiatrist petitioning the Board to grant an exception to the three-attempt exam limit rule under North Dakota Administrative Code 50-02-11-03.1(2) as it took him five attempts to pass Step 3 of the USMLE. Dr. Hussain is currently licensed in five other states, ABMS board certified, and has been in practice for over seven years with no discipline.

Dr. Anderson made a motion to approve granting an exception to the three-exam limit rule, seconded by Dr. Pierce, motion passed unanimously by roll call vote.

- **David Schwartz, MD**

Dr. Schwartz received a conditional license on July 28, 2023, implementing a reentry to practice plan requiring supervision by a proctor. Dr. Schwartz has successfully completed his reentry plan with the proctor providing verification that Dr. Schwartz exceeded all expectations.

Dr. Anderson made a motion to approve the Order Issuing an Unrestricted License for Dr. Schwartz, seconded by Ms. Barth, motion passed unanimously by roll call vote.

- **Shantell TwoBears, MD**

Dr. TwoBears received a conditional license on May 1, 2021, mirroring her restricted license issued in Colorado requiring PHP participation. The Colorado PHP provided information that Dr. TwoBears has completed her enrollment and is safe to practice.

Dr. Kemp made a motion to approve the Order of Completion for Dr. TwoBears which would remove the conditions on her licensure, seconded by PA Metzger, motion passed unanimously by roll call vote.

IPA v. Laura Purdy, MD

Dr. Purdy held a license issued through the Compact in North Dakota. Dr. Purdy has since been disciplined by Mississippi's Medical Board for inappropriate prescribing practices via telehealth. IPA sought disciplinary action and a Stipulation was signed by Dr. Purdy to mirror the disciplinary requirements of Mississippi along with requiring completion of CPEP's record keeping course. PA Metzger made a motion to approve the Order, seconded by Ms. Barth, motion passed unanimously by roll vote of IPB members.

The Board discussed how Dr. Purdy, as ineligible to renew through the IMLC, has since applied for licensure in North Dakota through the regular process. PA Lannoye made a motion to allow for Dr. Purdy to receive her licensure absent any new derogatory information when

she has completed the terms of the above order, seconded by Dr. Anderson, motion passed unanimously by roll call vote of the entire Board.

IPB v. Kishan Patel, MD

Dr. Patel received two domestic abuse charges and upon evaluation was deemed not safe to practice. IPB sought disciplinary action and a Stipulation was signed by Dr. Patel for indefinite suspension of his residency license. Dr. Quast made a motion to approve the Order, seconded by PA Lannoye, motion passed unanimously by roll call vote of IPA members.

Investigative Panel A report

Dr. Quast, Chair, reported that Investigative Panel A reviewed a total of nineteen (19) cases: one (1) stipulation was approved, one (1) confidential letter of concern was authorized, three (3) cases were tabled for further review, all other cases dismissed, or no action taken.

Investigative Panel B report

PA Metzger, Chair, reported that Investigative Panel B reviewed a total of twenty-two (22) cases: one (1) case was referred for formal disciplinary action, one (1) stipulation was approved, one (1) confidential letter of concern was authorized, two (2) cases were tabled for further review, all other cases dismissed, or no action taken.

COMMITTEE REPORTS

Laws/Rules/Legislative Committee (Drs. Anderson, Horner, and Quast; PA Metzger; ND Link, and Ms. Andrist).

Dr. Johnson made a motion to approve the August 28 and September 27, 2023, committee meeting minutes, seconded by Dr. Horner, motion passed unanimously by committee members.

The Administrative Rules of the Naturopaths were reviewed – moving what was formally Chapter 112-02 into Chapter 50-06. Updates were made to incorporate changes from the recent Legislative Session – S.B. 2221.

The Board discussed whether it should continue to require verification of certain hours of education for intravenous therapy before a naturopath could administer, considering this is part of the education a naturopath would receive in their schooling. The Board decided to keep this requirement in at this time.

The Board then discussed the formulary, drafted by Dr. Anderson and ND Link after numerous discussions and public meetings with various board members, constituents, associations, practitioners, pharmacists, and insurance companies. In reviewing the formulary, a few modifications were made. Changes were made to clarify language on estrogen prescribing. Dr. Quast made a motion to limit testosterone to 400mg/month, seconded by Dr. Kemp, motion passed unanimously by roll call vote. A motion was made by Dr. Pierce to exclude intraarticular injections and intraspinal injections from naturopathic administration and to add language that any compounding must be done following USP regulations and specifications, seconded by Dr. Quast, motion passed unanimously by roll call vote.

Dr. Kemp made a motion to approve the drafted chapter 50-06 with the above amendments, seconded by Pierce, motion passed unanimously by roll call vote.

The Board also reviewed updated Administrative Rules for Title 50 implementing recent legislation from S.B. 2115. An overview was provided by Director DePountis about proposed changes approved by the LRL committee including moving the licensure from a one-year to a two-year system, record retention requirements, updates to CME requirements, and updates on fees for practicing without a license. Dr. Anderson made a motion to approve the drafted chapter 50-06 as presented, seconded by Dr. Kemp, motion passed unanimously by roll call vote.

Director DePountis will move forward with implementing the rules in compliance with N.D.C.C. chap. 28-32.

PHP Committee (Dr. Armstrong [chair], Drs. Houle, Homan, and Johnson, and PA Lannoye)

Dr. Johnson made a motion to approve the May 24, 2023, committee meeting minutes, seconded by Dr. Homan, motion passed unanimously by committee members.

Finance Committee (Ms. Barth [chair], Drs. Kemp and Pierce, and PA Metzger)

Dr. Kemp made a motion to approve the May 24, 2023, committee meeting minutes with the amendment of changing the meeting adjournment time from “a.m.” to “p.m.”, seconded by Dr. Pierce, motion passed unanimously by committee members.

Various Policy Discussions

The Board reviewed its Operations Manual - updated to implement recent legislative changes. The Board also discussed its policies on interviews for licensure for malpractice settlements to only require those occurring within the ten years preceding licensure. Dr. Quast made a motion to approve the changes to the Operations Manual as presented, seconded by Dr. Dewing, motion passed unanimously by roll call vote.

The Board next reviewed reentry-to-practice packets for MDs/DOs and PAs who have been out of clinical practice for over two years. The packets are intended to provide information on what a reentry plan should include and more information to help guide those who are wanting to return to practice. Dr. Pierce made a motion to approve the reentry packets as presented, seconded by Dr. Kemp, motion passed unanimously by roll call vote.

Draft Logo and License Certificate for Review

The Board previously approved a contract for a graphic design artist to draft logos, license certificates, and new letterhead for the Board of Medicine. Three logos were provided for review of the Board. Once chosen, the logo would be incorporated into the license and letterhead. Upon review, the Board requested some alterations be made to Logo #3 and to bring back some additional options.

Office Matters

2024 Meeting Dates. Proposed meeting dates for 2024 include: January 25-26, April 25-26, July 25-26, and October 24-25, 2024. The Board reviewed the dates and determined that

the January and July meetings will be virtual, and the April and October meetings will be in person.

Office Salary. Dr. Kemp approved the standard 6% raise for NDBOM office staff to mirror that provided by other state employees, with a 2% merit raise to be offered by Director DePountis upon evaluation of staff members, seconded by Dr. Quast, motion passed unanimously by roll call vote.

ED Evaluation. Dr. Houle presented the yearly evaluation of Director DePountis. Dr. Kemp made a motion to approve Addendum #3 to Director DePountis' contract, seconded by Dr. Horner, motion passed unanimously by roll call vote.

The meeting was adjourned at 12:39 p.m.

Sandra DePountis

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Executive Director