

NEBRASKA STATE BOARD OF HEALTH MEETING
MINUTES – SEPTEMBER 18, 2023

ATTENDANCE NOTIFICATION. Dr. Doug Vander Broek, Chair, called a regular meeting of the State Board of Health to order at 1:05 PM on September 18, 2023, in the Goldenrod Conference Room in the Lower Level of the Nebraska State Office Building in Lincoln. Copies of the agenda were mailed electronically to board members and other interested parties prior to the meeting, and posted on the Health and Human Services website and bulletin board. The following members were present: Heather Cramer, RN; Russell Crotty, OD; Diane Jackson, APRN; Michael Kotopka, DDS; David Reese, MHA; Daniel Rosenthal, PE; Doug Vander Broek, DC; Dan Vehle. Quorum was not met. Staff and others in attendance: Monica Gissler. DHHS attorney Teresa Hampton attended via Webex. Board members not in attendance: Jaime Dodge, MD; John Kuehn, DVM; Donald Ostdiek, DPT; Mark Patefield, PharmD; Robert (Bud) Synhorst; Josh Vest, DPM.

UPDATES, REPORTS

Dr. Tim Tesmer, Chief Medical Officer, Division of Public Health reported that Dr. Steven Corsi started as the new CEO of the Department of Health and Human Services. Dr. Tesmer and the Department are receiving a lot of questions regarding the implementation of LB 574. There is an FAQ document on the DHHS homepage. <https://dhhs.ne.gov/Documents/CMO-LetThemGrow-FAQ.pdf> The emergency regulations will be shared by the October 1, 2023 deadline, and the public hearing for the actual proposed regulations will be held on November 28th.

Legislation – Nicole Barrett, JD, Director of Legislative Services reported that there were 137 Interim Studies, and of those the Department of Health and Human Services is monitoring 54 of them. 22 of the 54 went to the HHS Committee. The dates for the 2024 legislative session were announced as January 3-April 18. The Governor appointed Senator Tom Briese as State Treasurer, so there will be a new state senator appointed.

Licensure Unit – Lindsay Braddock, Unit Administrator, introduced Dina Mekic, new Program Manager for Behavioral Health and Consumer Services, replacing Kris Chiles. She also gave an update on the new licensing information system, and on the current staffing issues which are affecting their healthcare professional license processing.

Board of Health Chair – Dr. Vander Broek reported the following:

1. Professional board meetings: Board of Health members are each assigned as liaisons to various professional boards. They will let staff know in advance when they plan to attend a meeting. Upon arrival at a meeting, they will introduce themselves to the Board staff, and then to the full Board as the Board of Health liaison. This applies to both in-person and WebEx meetings. Board of Health members are allowed to remain during closed session meetings and must comply with all rules of confidentiality.
2. Senator Ben Hansen will be rescheduled for another meeting.

3. Tom Skutt, a DHHS attorney for Public Records and Discovery will present to us at 2:00 PM today, so wherever we are in the agenda, we will pause for him at 2:00.
4. The documents for the meeting today were posted on the Sharepoint Partner site.
5. Later today we will set our meeting dates for 2024, so please be prepared with your calendars.
6. Committee annual reports are due in November.
7. The annual election of Board of Health officers will occur at our November 13th meeting. Let Monica know if you would like your name on the ballot.
8. Jesse Cushman, former Licensure Unit Program Manager for Medical and Specialized Health in the Licensure Unit has taken a new position with DHHS Informatics. Vonda Apking is the Interim Program Manager.
9. Dr. Doug Bauer has resigned from the Board of Health due to his professional conflicts. I want to thank him for his time and his service on the Board of Health, and I also want to thank all of the Board of Health members who are present today.

Health Careers Pipeline Initiative: Stacey Ocander presented via Webex. The program kicks off in January, and she will be back to update the Board in March. This program is for students in grades 3-6, being introduced to another field every week. It will be a pilot program across the state, with about 15 programs. There are bootcamps planned with 1-2 week experiences for 7-9 graders, and if they complete all of them, they will receive college credits. She is also writing facility documents with activities for visiting students to do, so each facility doesn't have to develop their own program.

1:46 PM – Dr. Vander Broek called a Recess due to lack of quorum.

1:52PM – Dr. Vander Broek called the meeting back into session. The following members were present: Heather Cramer, RN; Russell Crotty, OD; Diane Jackson, APRN; Michael Kotopka, DDS; David Reese, MHA; Daniel Rosenthal, PE; Doug Vander Broek, DC; Dan Vehle; Josh Vest, DPM. Quorum met.

Staff and others in attendance: Monica Gissler.

Board members not in attendance: Jaime Dodge, MD; John Kuehn, DVM; Donald Ostdiek, DPT; Mark Patefield, PharmD; Robert (Bud) Synhorst.

APPROVAL OF AGENDA AND MINUTES. Dr. Vander Broek asked if there were any changes to the agenda for the meeting today and the minutes from the June 12, 2023 regular meeting. Mr. Vehle made a motion to approve the agenda and draft minutes, seconded by Mr. Reese; voting yes: 9 (Cramer, Crotty, Jackson, Kotopka, Reese, Rosenthal, Vander Broek, Vehle, Vest); voting no: 0; not voting: 0. Motion carried.

Rules and Regulations Committee – Mr. Vehle, Committee Chair, reported.

<https://dhhs.ne.gov/Pages/DHHS-Regulations.aspx>

1. Review the following proposed rules and regulations:

- 175 NAC 9, Hospitals – <https://www.nebraska.gov/nesos/rules-and-regs/regtrack/proposals/2671.pdf>.

The proposed regulations will update requirements to maintain documentation of criminal background and registry checks for prospective employees; update requirements for standards of operation, care, and services; specify requirements that staff are competent to perform their assigned duties; added criteria that patient rights information be provided in a manner and format that the customer can easily understand; added information regarding reporting and investigating abuse, neglect and exploitation; added requirements for rural emergency hospitals; and added a requirement to ensure patient possessions are safe and accounted for upon admission and discharge. Other proposed changes include removing duplicative statutory language and any repetitive language found in 175 NAC 1 from the regulations; updating definitions, terminology, section headings, and formatting; removing attachments from the regulations; and restructuring the regulatory chapter. A public hearing was held June 24, 2023. One person testified at the hearing and then provided written comments. Changes are being made to the regulations after the public hearing. The hearing summary is attached.

- 175 NAC 13, The Approval of Training Programs for Nursing Assistants and Care Staff Members, *Repeal* – <https://www.nebraska.gov/nesos/rules-and-regs/regtrack/proposals/2678.pdf>

Title 175 NAC 13 is being proposed to be repealed in its entirety as the training and registering of nurse aides and medication aides is regulated in the statutes relating to Nursing Assistants and Paid Dining Assistants, and statutes relating to Medication Aide Act. In addition, regulation sets 172 NAC 108 (Approval of Training Programs and Qualifications for Nurse Aides in Nursing Homes), 172 NAC 95 (Medication Aide Registry), and 172 NAC 96 (Administration of Medications by Medication aides and Medication Staff) are in place to regulate nurse aide and medication aide training and ensuring nurse aides and medication aides meet the requirements to be placed on their respective Nebraska Registries. 175 NAC 13 is duplicative, the language in this chapter is no longer used and no longer necessary.

A public hearing was held July 31, 2023. There was no testimony or comments provided during or after this hearing.

- 175 NAC 14, Home Health Agencies – <https://www.nebraska.gov/nesos/rules-and-regs/regtrack/proposals/2649.pdf>.

The proposed regulations will update requirements to criminal background and registry checks for prospective employees; update requirements for standards of operation, care, and services; and modify general requirements. Other proposed changes include removing duplicative statutory language and any repetitive language found in 175 NAC 1 from the regulations; removing guidance for agency staff from the regulations; updating definitions and formatting; removing outdated terminology; and restructuring the regulatory chapter. Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

A public hearing was held on May 15, 2023, there was testimony provided in writing and testimony at the hearing.

- 175 NAC 15, Respite Care Services – <https://www.nebraska.gov/nesos/rules-and-regs/regtrack/proposals/2650.pdf>. The proposed regulations will update requirements to criminal background and registry checks for prospective employees; update requirements for standards of operation, care, and services; update client and caregiver rights; set requirements of admission and discharge criteria; specify agreement of participation and service plan; and set requirements for disposal of medications. Other proposed changes include removing duplicative statutory language and any repetitive language found in 175 NAC 1 from the regulations; removing guidance for agency staff from the regulations; updating definitions, terminology, and formatting; and restructuring the regulations. Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

A public hearing was held on May 17, 2023, there was no testimony provided in writing and no testimony at the hearing.

- 175 NAC 16, Hospice Services – <https://www.nebraska.gov/nesos/rules-and-regs/regtrack/proposals/2651.pdf>. The proposed regulations will update requirements to criminal background and registry checks for prospective employees; update requirements for standards of operation, care, and services; and modify general requirements. Other proposed changes include removing duplicative statutory language and any repetitive language found in 175 NAC 1 from the regulations; updating definitions, terminology, and formatting; and restructuring the regulatory chapter. Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

A public hearing was held on May 17, 2023, there was no testimony provided in writing and no testimony at the hearing.

- 175 NAC 17, Intermediate Care Facilities – <https://www.nebraska.gov/nesos/rules-and-regs/regtrack/proposals/2652.pdf>. The proposed regulations for 175 NAC 17 outline the minimum requirements that Intermediate Care Facilities for Individuals with Intellectual Disabilities need to meet in order to be licensed to provide patient care in Nebraska. The regulation updates include removal of duplicative language in the previous regulations; remove language that is currently in statute; and provide up to date information and clarity for facilities and customers regarding the minimum requirements for Intermediate Care Facilities for Individuals with Intellectual Disabilities.

A public hearing was held May 22, 2023. Comments were received and addressed. No changes made to the regulations.

Dr. Kotopka made a committee motion to approve the proposed rules and regulations. voting yes: 9 (Cramer, Crotty, Jackson, Kotopka, Reese, Rosenthal, Vander Broek, Vehle, Vest); voting no: 0; not voting: 0. Motion carried.

Professional Boards Committee. Ms. Jackson, Committee Chair, reported. They conducted 29 interviews on Sunday at Bryan Medical Center East and three on Monday

morning and recommend the following appointments. Most terms are for December 1, 2023-November 30, 2028.

Board of Alcohol and Drug Counseling

* Amy Eigenberg, LIMHP, LADC, MAC, SAP from Kearney for the ADC position
Anthony Veronee, PLMHP, LADC from Grand Island for the Psych or Mental Health position

Board of Cosmetology

Keri Fisher from North Platte for the Cosmetologist position

Board of Hearing Instrument Specialists

Nikki Kopetzky, AuD, HIS from Omaha for the Audiologist position

Board of Medical Nutrition Therapy

David Freestone, DO from Omaha for the Physician position

Board of Medical Radiography

Anita Menousek, LMRT from Omaha reappointed to the Limited Medical Radiographer position

Board of Medicine and Surgery

Jodanne Hedrick, DO from Omaha reappointed for the Osteopathic Physician position
Wesley Zeger, DO from Omaha for the Medical School Faculty position

Board of Mental Health Practice

Amanda Milander-Mace, LIMHP, CPC, LMHP from Norfolk for the Professional Counselor position
Renea Gernant, PhD, from Louisville reappointed for the Public position

Board of Nursing

Angela Kula, LPN from Elkhorn reappointed for the LPN position
Clay Jordan, BSN, RN, NRP from Cambridge appointed for the Nursing Service Administrator position

Board of Nursing Home Administration

Gary Anthone, MD from Omaha for the Physician position
Tammy Deemer, RN-BC, LNHA from Fremont for the Registered Nurse position
Linda Bryant from Panama reappointed to the Public position

Board of Occupational Therapy Practice

Mary Walsh-Sterup, OTR/L, CHT from Hastings reappointed to the OT position

Board of Pharmacy

Sabrina Beck, PharmD, RP from Omaha reappointed to the Pharmacist (Hospital) position

Board of Psychology

Connie Petersen, PhD from Hoskins reappointed to the Psychologist position

Public Members

Mary Guthrie from Lincoln appointed to the Public position on the Board of Nursing

Tomeka Johnson from Omaha appointed to the Public position on the Board of Hearing Instrument Specialists

Jules Russ from Lincoln appointed to the Public position on the Board of Nursing

Scott Stocking, MDiv from Omaha appointed to the vacant Public position on the Board of Mental Health Practice

More interviews will be conducted on November 13, 2023.

Ms. Jackson made a committee motion to approve the proposed professional board appointments. voting yes: 9 (Cramer, Crotty, Jackson, Kotopka, Reese, Rosenthal, Vander Broek, Vehle, Vest); voting no: 0; not voting: 0. Motion carried.

We are still seeking applicants for a few professional member positions.

<https://dhhs.ne.gov/licensure/Pages/Board-Requirements-and-Vacancies.aspx>

New Board for Applied Behavior Analysts. Reviewed proposed requirements and timelines. There will be five members, with staggered terms: three behavior analysts, one Assistant behavior analyst or behavior analyst, and one Public member. We hope to make appointments at the November 13, 2023 meeting.

Reviewed changes to the Board of Medical Nutrition Therapists based on LB227.

Public Records – Tom Skutt, DHHS Public Records and Discovery Attorney, reported. He walked through the process that happens once a request for a public record is received, as prescribed in statute. The first question is always, “Do you have such a record, and how long will it take you to gather it?” The cost aspect is an internal question. Mr. Skutt’s office puts together a Time / Cost estimate and responds to the requestor within four days. A public record is anything that is responsive to the specific question: a conversation, a text, email, letter, an agenda, a voicemail, any electronic instant message. NRS 84-712 was referred to. The Board of Health is part of the Department of Health and Human Services, and may be subject to responding to public records requests, depending on what the exact request is. As you’re conducting business relating to the Board of Health, be cognizant that it may be considered as a public record. Mr. Skutt stated that there are two types of records from each public meeting – the official minutes, and the audio tape. Ms. Hampton clarified that the record retention schedule for our meetings states that once the minutes are approved by the board, the audio tape does not need to be retained.

Credentialing Review (407) Committee – Mr. Rosenthal, Committee Chair, presented. <https://dhhs.ne.gov/licensure/Pages/Credentialing-Review.aspx> At the committee meeting, they discussed creating a subcommittee to review the credentialing review process. Dr. Crotty will take the lead on this, and other members will include Dr. Vander Broek, Mr. Rosenthal, and any other interested Board of Health members.

PUBLIC COMMENTS. None.

UNFINISHED BUSINESS.

- Healthcare Workforce Issues – Mr. Reese presented. He shared a draft letter to Senator Arch regarding the shortages.

NEW BUSINESS.

- Meeting dates for 2024.
January 22
March 11
June 10
September 16 (Professional Boards interviews on Sunday, September 15).
November 18

TOPICS AND PREPARATION FOR NEXT MEETING. The next regular Board of Health meeting will be Monday, November 13, 2023. Location will be Bryan Medical East, Plaza Conference Room B at 12:30 pm.

ADJOURN. There being no further business, Dr. Kotopka made a motion to adjourn, with a second by Ms. Cramer; all in favor by voice vote. The meeting adjourned at 3:06 PM. Minutes were taken by Monica Gissler and were approved by the State Board of Health on November 13, 2023.

NOTE: If you would like to receive these minutes electronically, please send a request to the email address below. Please also inform staff if you would like to be removed from this distribution list altogether.

*If you would like any attachments mentioned in these minutes, or have other questions, please contact Monica Gissler, 402/471-2948, or email at: monica.gissler@nebraska.gov.
Board of Health: <https://dhhs.ne.gov/licensure/Pages/Board-of-Health.aspx>*

Rev 11/14/23,

mcg