

NEBRASKA BOARD OF MEDICINE AND SURGERY

MEETING MINUTES

May 19, 2023

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Vice-Chairperson, Rachel Blake, MD, at 9:05 a.m. on May 19, 2023, at the Hampton Inn & Suites, 7343 Husker Circle, Lincoln, Nebraska 68504. The meeting was conducted In-Person and by WebEx. The following members answered the roll call:

Rachel Blake, MD, Vice-Chairperson
Adam Kuenning, JD, LLM, Secretary
Jodanne Hedrick, DO
Jeffrey Howorth
John Massey, MD
Maria Michaelis, MD – joined the meeting at 9:45 a.m.

Absent: Mark Goodman, MD
Brian Keegan, MD, Chairperson

A quorum was present, and the meeting convened.

Also present to participate in the meeting: Jesse Cushman, Program Manager, Jan Gadeken-Harris, Health Licensing Coordinator, with the Licensure Unit; Mindy Lester, Assistant Attorney General; Kathleen Krueger, Trevor Klaassen Jeff Newman and Mark Meyerson, Investigators with the Investigation Unit; Suzanna Glover-Ettrich, Department Attorney via WebEx and Anna Harrison, DHHS Compliance Monitor for Licensing and Investigations via WebEx.

Dr. Blake announced that there is a copy of all the public documents being reviewed at this meeting available in the meeting room pursuant to the Open Meetings Act.

In accordance with Neb. Rev. Stat. § 84-1411 of the Nebraska Open Meetings Act, copies of the agenda were e-mailed to the Board members and other interested parties, posted on the DHHS web site at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx> and posted in the Licensure Unit on May 8, 2023.

REVIEW OF AGENDA

Kuenning moved, seconded by Hedrick to approve adoption of the agenda with the Chair having the authority to rearrange agenda items as needed. Voting aye: Blake, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Goodman, Keegan and Michaelis. Abstain: None. Motion carried.

Additions, Modification, Reordering

The Board requested the following applications to be removed from the Application Review Consent Agenda:

Summa, James, MD – Initial Application
Vonderfecht, Scott, MD – Requesting PA Waiver

Kuenning moved, seconded by Hedrick to approve adoption of the Pharmaceutical Care Agreements Consent Agenda. Voting aye: Blake, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Goodman, Keegan and Michaelis. Abstain: None. Motion carried.

2023 LEGISLATION UPDATES

Paul Henderson, Vice President, Advocacy & Regulation; In-house Counsel with the NMA (Nebraska Medical Association) was present to discuss and provide updates to the Board.

- LB16 Require occupational boards to issue certain credentials based on credentials or work experience in another jurisdiction and make a determination regarding an applicant with a criminal conviction, provide for jurisprudential examinations and appeals from denial of a license, and change requirements for membership of the State Electrical Board
Referred to Government, Military and Veterans Affairs Committee
The NMA opposes this bill as written
Hearing held February 9, 2023
Placed on General File with AM748
To learn more about LB16 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB16.pdf>
- LB68 Increase limits on medical malpractice liability and change provisions of the Nebraska Hospital-Medical Liability Act
Referred to Banking, Commerce and Insurance Committee
The NMA supports this bill
Hearing held January 30, 2023
Amendments adopted February 16, 2023
To learn more about LB68 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB68.pdf>
- LB181 Provide for filling and refilling prescriptions in certain circumstances
Referred to Health and Human Services Committee
The NMA opposes this bill as written
The Board of Medicine and Surgery submitted a letter in opposition to LB181 to the Legislature
Hearing held February 1, 2023
Amendment filed March 23, 2023
To learn more about LB181 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB181.pdf>
- LB286 Provide for confidentiality of a physician wellness program under the Uniform Credentialing Act
Referred to Health and Human Services Committee
The NMA supports this bill as written
Hearing held February 9, 2023
To learn more about LB286 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB286.pdf>
- LB351 Increase and eliminate limits on medical malpractice liability and change provisions relating to proof of financial responsibility and the Excess Liability Fund
Referred to Judiciary Committee
The NMA opposes this bill as written
Hearing Scheduled for February 24, 2023
To learn more about LB351 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB351.pdf>
- LB422 Exempt certain activities from disciplinary action under the Uniform Credentialing Act
Referred to Health and Human Services Committee
The NMA opposes this bill as written
Hearing Held February 16, 2023
Amendment filed February 23, 2023
To learn more about LB422 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB422.pdf>
- LB574 Adopt the Let Them Grow Act
Referred to Health and Human Services Committee
The NMA opposes this bill as written
There has been a lot of activity and amendments with this bill
LB626 was merged into LB574
Passed on final reading and presented to the Governor May 19, 2023
To learn more about LB574 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB574.pdf>

LB626 Adopt the Nebraska Heartbeat Act
Referred to Health and Human Services Committee
The NMA opposes this bill as written
Multiple Amendments filed
LB626 was merged into LB574
To learn more about LB626 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB626.pdf>

LB810 Adopt the Medical Ethics and Diversity Act
Referred to Health and Human Services Committee
Hearing February 10, 2023
Multiple Amendments filed
To learn more about LB810 go to: <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LB810.pdf>

REGULATIONS UPDATE

There were no updates on Regulations currently.

PAIN MANAGEMENT GUIDANCE COMMITTEE

Davidson Wissing, Drug Overdose Prevention Coordinator for NE DHHS was present to discuss with the Board. The Nebraska Pain Management Guidance Document was developed in October 2017. Federal guidelines have changed, therefore the Nebraska Pain Management Guidance Document needs an update. Davidson will send a letter to the affected Boards expressing the need for the development of a committee to update the guidance document with any new federal information.

To view the current Nebraska Pain Management Guidance Document go to:
<https://dhhs.ne.gov/DOP%20document%20library/Pain%20Management%20Pain%20Guidance.pdf>

APPROVAL OF MINUTES OF THE MEETING

Howorth moved, seconded by Hedrick to approve the minutes for April 21, 2023, as presented. Voting aye: Blake, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Goodman, Keegan and Michaelis. Abstain: None. Motion carried.

INVESTIGATIONAL REPORTS, DISCIPLINARY REPORTS, APPLICATION REVIEW – CLOSED SESSION

Howorth moved, seconded by Hedrick, to go into closed session at 9:30 a.m. for the purpose of review and discussion of investigative reports, disciplinary reports, licensure applications, and other confidential information, and for the prevention of needless injury to the reputation of the individuals. Voting aye: Blake, Hedrick, Howorth, Kuenning and Massey. Voting nay: None. Absent: Goodman, Keegan and Michaelis. Abstain: None. Motion carried.

Kuenning Recused himself at 9:44 a.m.
Kuenning Returned at 9:56 a.m.

The Board members returned to Open Session at 11:10 a.m.

APPLICATION REVIEW – OPEN SESSION

BOARD RECOMMENDATIONS ON APPLICATIONS FOR LICENSURE AND REGISTRATION

Physician and Osteopathic Physician Initial Application(s) (1)

SUMMA, JAMES, MD - application for Initial license to practice medicine and surgery. Hedrick moved, seconded by Kuenning, to recommend approval of the application to practice medicine and surgery. Voting aye: Blake, Hedrick, Howorth, Kuenning, Massey and Michaelis. Voting nay: None. Absent: Goodman and Keegan. Abstain: None. Motion carried.

Physician Assistant Waiver Request Application(s) (1)

VONDERFECHT, SCOTT, MD – application requesting supervision for two (2) additional physician assistants. Hedrick moved, seconded by Howorth, to recommend denial of the request to supervise two (2) additional physician assistants. Basis was not given, therefore the Board will readdress this application at the next meeting. Voting aye: Blake, Hedrick, Howorth, Kuenning, Massey and Michaelis. Voting nay: None. Absent: Goodman and Keegan. Abstain: None. Motion carried.

REVIEW OF THE UCA (UNIFORM CREDENTIALING ACT)

The Board discussed the importance for all licensees to be aware of the Nebraska UCA, which are the Statutes, the basic law, rules, and regulations for the privilege of holding a credential. Many of the Board voiced that before they were Board Members, they were not fully aware of the importance.

38-103. Purposes of act. The purposes of the Uniform Credentialing Act are (1) to protect the public health, safety, and welfare by (a) providing for the credentialing of persons and businesses that provide health and health-related services and environmental services which are made subject to the act and (b) the development, establishment, and enforcement of standards for such services and (2) to provide for the efficient, adequate, and safe practice of such persons and businesses. Source: Laws 2007, LB463, § 3.

The UCA is available on the DHHS public website:

<https://dhhs.ne.gov/licensure/Documents/UniformCredentialingAct.pdf>

To provide for compliance with the provisions of the Uniform Credentialing Act, Rules and Regulations the DHHS Division of Public Health Investigations Unit is responsible for investigating complaints against health care professions and occupations.

The Board also feels the importance of all licensees to be aware of what activities that must be reported and when and that failure to report may result in discipline.

Visit the DHHS public website Investigation pages to review the “Mandatory Reporting Summary” the chart defines who is to report and what is to be reported.

<https://dhhs.ne.gov/Pages/Investigations.aspx>

<https://dhhs.ne.gov/licensure/Documents/SMRRequire.pdf>

PRACTICE QUESTION(S)

A. Is the use of lasers for the purpose of vaginal rejuvenation considered a surgical procedure?

Currently the Board has chosen not to give an opinion.

FSMB CONFERENCE FOLLOWUP

The Federation of State Medical Boards annual conference was held in Minneapolis, MN on May 4-6, 2023. Those in attendance representing the Nebraska Board were, Jesse Cushman, Dr. Blake and Dr. Hedrick. They expressed that they fully enjoyed the different sessions of the meeting and interacting with their peers and learning what other states are doing with discipline and investigations and Physician Health Programs, etc.

Recordings from the 2023 Annual Meeting will be available soon on the FSMB website:

<https://www.fsmb.org/education/>

BOARD MEETING SCHEDULE

The next meeting is scheduled for June 30, 2023, in the Husker Conference Room at the Hampton Inn & Suites. To see a complete list of the projected schedule, visit the DHHS website:

<https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>

ADJOURNMENT

There being no further business, Blake, Chairperson adjourned the meeting at 11:40 a.m.

Respectfully submitted,

signature available upon request

Adam Kuenning, JD, LLM, Secretary
Board of Medicine and Surgery