

North Dakota Board of Podiatric Medicine
Regular Board Meeting
October 13, 2018

Board Members Present: Kevin Koester, DPM, Ashley Evanoff, DPM, Eric Hart, DPM, Gordon Leingang, DO.

Others Present: Stacy Moldenhauer, JD, attorney and JoDee S. Wiedmeier, Executive Director

Absent: Vicki Kunz with one vacancy on the board

Dr. Koester served as chairman of the meeting and called the meeting to order at 9:04 a.m. CDT.

A call for new agendas items was made. No new agenda items were placed on the agenda.

The proposed minutes from the September 16, 2017, board meeting were previously distributed to the board members. Dr. Leingang moved to approve the September 16, 2017, meeting minutes as written. Dr. Hart seconded the motion. The motion passed unanimously.

A review of the newly issued temporary permit to Dr. Christopher Hinh was had. No concerns were noted. Dr. Hart moved to approve permit previously issued by President, Dr. Koester. Dr. Evanoff seconded. No further discussion was had. Motion passed.

Ms. Wiedmeier gave the licensure report. The state currently has 39 active licenses, 35 active licenses, one temporary license and three temporary permits for residency. There are two personal appearances scheduled for today. If both licenses are approved, it will make 38 active, no temporary and three temporary permits for a total for 41 podiatric licenses issued in ND. It was reported that Dr. Mackey did not renew his license for 2018.

Discussion was had regarding the new feature of the National Practitioner Data Bank (NPDB) called continuous query. Once you enroll the podiatrist, it will notify the board any updates or reports filed against the registered podiatrist for one year. Therefore, we would be notified if any podiatrists were disciplined in another state or had any other report filed with the NPDB. It will cost approximately \$80.00 per year to enroll each podiatrist yearly in continuous query. The board finds that this would be beneficial and would assist the board in its mission to protect the public. Dr. Evanoff moved to participate in continuous query with the NPDB by enrolling all actively licensed podiatrists in the in continuous query on yearly basis. Dr. Hart seconded the motion. No further discussion was had. Ms. Wiedmeier was instructed to implement this feature.

The board commenced the personal interviews for two applicants.

Dr. Eric Nelson, DPM appeared and introductions were made. He is currently employed with Midwest Podiatry Services in the Minneapolis area. His company is branching out to provide

podiatric care in nursing homes and similar facilities in the eastern part of North Dakota mostly in the Fargo area. He is currently holds a license in Minnesota. He is originally from New York and completed his education in New York. The scope of practice in North Dakota was discussed as well as the CME requirements for annual renewal of licensure. The Board's role in licensing and regulating podiatrists was also discussed. Dr. Nelson was instructed to make sure he keeps the board informed of his current mailing address and that his certificate should be displayed when working in North Dakota. Dr. Koester moved to grant full licensure. Dr. Leingang seconded the motion. No further discussion was had. The motion passed unanimously.

Yashraj Chauhan, DPM appeared and introductions were made. Dr. Chauhan was previously issued a temporary license on May 30, 2018. Dr. Chauhan is currently practicing at Valley Bone and Joint in Grand Forks. He was educated in Detroit and did a fellowship in Pennsylvania. The scope of practice in North Dakota had been previously reviewed by Dr. Chauhan and was discussed along with the CME requirements for annual renewal of licensure. The Board's role in licensing and regulating podiatrists was also discussed. Dr. Chauhan was instructed to make sure he notifies the board office of any address changes as soon as possible and display his licensure certificate in his office. Dr. Hart moved to grant full licensure. Ms. Evanoff seconded the motion. No further discussion was had. The motion passed unanimously.

Discussion was had regarding board member appointments. It was noted that there is currently one vacancy on the board and both Dr. Koester's and Vicki Kunz's terms will expire in June of 2019 and that neither are eligible for reappointment. It was noted that the Governor's office has not been very responsive regarding appointments. The board members will reach out to colleagues and others and instruct them to submit an application for appointment to the board with the Governor's office. Ms. Wiedmeier will continue to work with the Governor's office to facilitate appointments to the board.

The board reviewed Dr. Harris' Continuing Medical Education (CME) submission. The credits submitted appeared to be directly related to the practice of podiatry with the exception of the 340B Overview which was more administrative in nature. Dr. Evanoff moved to approve all of Dr. Harris' previously administratively denied CME except for the 340B Overview (1.5 credits) Dr. Hart seconded. No further discussion was had. Motion passed unanimously. Ms. Wiedmeier was instructed to update Dr. Harris' 2017 CME to reflect the granting of these credits and to notify Dr. Harris of the same.

The board's current website was reviewed. The board instructed Ms. Wiedmeier to add North Dakota Century Code under Scope of Practice for clarification and informational purposes. No further changes to the website were suggested.

The board took a short break at 10:25 a.m. CDT. The meeting resumed at 10:32 a.m. CDT and Ms. Moldenhauer joined the meeting. Agenda items 9 & 10 were tabled until after the executive session.

The Attorney General's (AG's) office held a meeting for board attorneys on September 18, 2018 in anticipation of the board member training that the AG's office is holding on October 30, 2018. Ms. Moldenhauer reported on this meeting indicating that board immunity and state oversight of administrative boards continues to be a hot topic. It was mentioned that one area being looked at to provide further state oversight of regulatory boards is changing the Administrative Law Judge's findings to 'final' findings as opposed to the current 'recommended' findings. It was noted that the short notice will not allow board members to attend the training on October 30, 2018, but both Ms. Moldenhauer and Ms. Wiedmeier will be attending.

Discussion was had regarding the 2019 legislative session. Discussion included the need for statutes relating to telemedicine. Ms. Moldenhauer reported that the North Dakota Medical Board previously introduced agency rules regarding telemedicine, but the rules committee indicated that the rules needed to be statutory. Therefore, it is very likely that the medical board will introduce legislation regarding telemedicine. Telemedicine is not a huge area of practice for podiatrists and the board is not aware of any major issues relating to its use at this time. It was determined that the board would monitor the telemedicine statutes in the session and further determined that no legislation would be pursued in the 2019 legislative session.

Discussion was had regarding the requirement that professional licensing boards that issue licenses to those who are authorized to prescribe controlled substances adopt rules regarding the utilization of the Prescription Drug Monitoring Program (PDMP) as set out NDCC 19-03.5-09. The current rules adopted by the licensing boards for physicians, dentists and nurses were reviewed. The proposed new Article 63-06, Chapter 63-06-01, Section 63-06-01-01 was reviewed. Dr. Hart moved to approve and adopt the prescription drug monitoring rule as written and to proceed with the administrative rule making process. Dr. Leingang seconded. No further discussion was had. Motion passed unanimously.

The proposed administrative rules were reviewed and discussed. Chapters 63-02-01, 63-02-02, 63-02-03, 63-02-04, 63-02-05 of the North Dakota Administrative Code are in need of updating. These all relate to the application and license issuance rules of the board. It was noted that some of these rules have not been updated since 1991 and that the board no longer issues an oral-practical examination. The board has relied upon applicants passing all three parts of the national exam for many years. Dr. Evanoff moved to approve as written and proceed with the administrative rule making process for the amendment of 63-02-01-01, 63-02-02-02, 63-02-02-03, 63-02-02-04, 63-02-03-01, 63-02-04-01, and 63-02-05-01. Dr. Hart seconded. No further discussion. Motion passed unanimously.

Dr. Hart made a motion to enter into Executive Session in order to discuss current complaints filed against podiatrists that contain confidential patient data and to further consult with the board's attorney in such matters. Ms. Evanoff seconded and the motion passed unanimously. The board entered Executive Session at 11:15 a.m. CDT.

The executive session concluded at 11:45 a.m. CDT. It was noted that three complaints were reviewed by the board during the executive session. Three complaints were found by the Board to warrant no further action and were dismissed.

Ms. Moldenhauer was dismissed from the meeting at 11:45 a.m. CDT. The board thanked Ms. Moldenhauer for her time.

Discussion was had regarding the issues surrounding prescribing in today's culture and climate. It is a real problem across all medical fields, with podiatrists being no exception. The board is taking steps to implement the Prescription Drug Monitoring Program Rule (PDMP) and discussion was had regarding adding a question/check box regarding participation in this program on the renewal declaration. Dr. Hart moved to include a flyer with the renewal declaration for 2019 regarding the anticipated upcoming rule regarding registration with the PDMP and to amend the renewal declaration beginning in 2020 to include a check box acknowledging registration with the PDMP provided new section 63-06-01-01 is adopted. Dr. Leingang seconded. No further discussion was had. The motion passed unanimously.

The annual review of the Executive Director was had. No concerns were voiced regarding her job performance. Ms. Wiedmeier was thanked for her administration and it was noted that the board office is well managed. Dr. Hart moved to increase the Executive Director's salary by 5% to \$15,435.00 per calendar year, commencing January 1, 2019. Dr. Leingang seconded. No further discussion. Motion passed unanimously.

The financial reports were reviewed and discussed. It was noted that the 2017 Annual Financial Report submitted to the Auditor's Office was approved. The bank balance as of August 31, 2018 was \$44,844.26 this includes the reserve fund balance in the amount of \$5,000.00 and the operating funds balance in the amount of \$39,844.36.

The budget was discussed. It was noted that the Data Bank Query was increased to \$100 due to participation in the continuous query feature of the NPDB, the legal expenses were increased to \$6,000 due to the anticipated administrative rules amendments, webpage and computer software were also increased slightly due to software renewals. Due to previous motion to increase the Executive Director's salary, Dr. Hart moved to increase the Executive Director's line item on the budget to \$15,435.00. Dr. Leingang seconded. Motion passed unanimously.

Discussion was had regarding the reserve fund and its necessity. Dr. Hart, the secretary/treasurer, recommended the designation of \$5,000.00 to the reserve fund for 2019. Dr. Evanoff moved to designate \$5,000 out of the board's current operating funds to the reserve fund for 2019 and to amend the budget to reflect this amount. Dr. Leingang seconded. Motion passed unanimously.

Dr. Hart moved to approve the 2019 budget, as amended. Dr. Evanoff seconded. Motion passed unanimously.

Dr. Koester was recognized for his years of service with the board as a member and President. Vicki Kunz was also recognized for her eight years of service to the board as its public member. Their time and effort is much appreciated.

Election of officers was had. Ms. Koester moved to nominate and elect the slate of officers as follows: President - Dr. Ashley Evanoff; Vice President – Dr. Gordy Leingang; and Secretary/Treasurer- Dr. Eric Hart. Dr. Leingang seconded. The motion passed unanimously.

The next regularly scheduled meeting of the board will be held on September 28, 2018, at 9:00 a.m. in Bismarck. Ms. Wiedmeier will make the necessary arrangements.

Dr. Koester moved to adjourn the meeting. Dr. Hart seconded. The meeting adjourned at 12:15 p.m. CDT.

Respectfully Submitted,

Eric Hart, DPM
Secretary/Treasurer

Attest:

Kevin Koester, DPM
President