



Board Meeting Minutes – 2.19.2021

ZOOM Meeting

9:30 a.m. (CST)

Mission Statement: To protect the public and ensure compliance with the ND Century Code Chapter 43-44.

Present – Board Members: Brooke Fredrickson, Wendy Mankie, Shaundra Ziemann-Bolinske, Nancy Overson and Linda Schloer

Also present was Pat Anderson, NDBODP Executive Secretary

I. Call to Order

Chair, Brooke Fredrickson called the meeting to order at 9:30 a.m.

II. Procedure for Guests

No guests were present at beginning of the meeting. Joan Enderle joined later during the meeting.

III. Approval of 1.26.2021 Board Meeting Minutes

Nancy Overson moved to approve the minutes as written; Wendy Mankie seconded the motion. Passed.

IV. Complaint from Casey Colin

An email was received from Casey Colin on January 29. She is inquiring about the legalities of a nurse practitioner providing nutrition education in ND. Here is her social media page <https://www.facebook.com/TheCookingNP/>. Please look into this licensure issue, as she is not a registered dietitian nutritionist.

Brooke stated that she is aware of this person and there is not really anything in our law that prohibits her from doing what she is doing. As a nurse she is exempt and it looks very general with keto diet cooking. Nancy Overson moved to not pursue action on the complaint; Shaundra Ziemann-Bolinski seconded the motion. There was no discussion. Roll Call Vote: Yeas – Brooke, Nancy, Linda, Wendy and Shaundra. Passed: 5 Yays, 0 Nays.

V. Review for LRD Licensure – Jennifer Krieger McCurry

Jennifer Krieger McCurry has applied for licensure as an LRD. She was licensed through Sept. 30, 2020 and she did not renew. Her license is lapsed. She has a pending criminal case.

Pat Anderson consulted Allyson Hicks and Allyson emailed her comments:

This applicant has been working at WIC but did not renew her license right away. The board needs to consider whether or not this is practicing without a license. A few things to consider – 1) just because her employer requires a license doesn't mean she necessarily needs a license to perform her job duties so just because she continued to work does not automatically mean she was practicing without a license; 2) even if she was practicing without a license, the remedy for that is criminal prosecution. In the past, when the board becomes aware of unlicensed practice, we've sent a letter to the individual encouraging them to seek licensure and that failure to do so would result in forwarding the case to the prosecutor. It's generally good to handle these cases consistently. I would recommend that you consider licensing her and then taking action against her license. Usually I recommend to boards that they wait until the case is done to take action against a licensee/applicant. The Board doesn't know if they will be convicted, acquitted, or the charges dismissed. My recommendation would be to issue the license under the following conditions:

- a. The applicant needs to keep the board apprised of her criminal case and within 10 days of Judgment, she needs to submit the appropriate documentation to the board showing the outcome of the case.
- b. Upon completion of the criminal case, the board will consider the matter and take appropriate disciplinary action at that time.
- c. Follow all portions of 43-44, including the licensure laws.
- d. Failure to comply with the terms of the settlement agreement will allow the Board to take action, including revocation or suspension, without further hearing.

This would be accomplished via a settlement agreement. Once the board receives the signed settlement agreement back, it can issue a license to the applicant. Once the case is done, the board can consider it as a disciplinary action against the licensee.

Shaundra Ziemann-Bolinske moved that the board proceed with the settlement agreement as recommended by Allyson; Linda Schloer seconded the agreement. There was no discussion. Roll Call Vote: Yeas – Brooke, Nancy, Linda, Wendy and Shaundra. Passed: 5 Yays, 0 Nays.

VI. Francie Berg – Settlement Agreement

Pat reported that Francie Berg has not signed/returned the settlement agreement issued last November. She has followed up with Allyson and asked whether it would be appropriate to contact her in light of her age and particularly if any illness issues. Allyson had indicated that it would be fine. Pat reported that she had reached out to Francie this month and Francie still wasn't sure what she was going to do. Francie had expressed that she didn't know how she could get the CE necessary since no one is having conferences. Pat explained to her there are lots of webinars (in real time) and that NDAND was having a virtual conference in March. She is going to think about it. Pat reported that she discussed this with Allyson and Allyson suggested the following options for the board to consider:

- A. Do nothing until April 30, 2021 and then act accordingly.
 - If CE is completed, she is issued a license.
 - If CE is not completed by April 30, 2021, make a motion for the settlement agreement to be rescinded; make a motion to deny her license and give her 30 days to request an administrative hearing.

B. Rescind the settlement agreement at this board meeting, make a motion to deny her license and give her 30 days to request an administrative hearing.

Pat made a request to the board to do nothing until April 30, 2021.

Discussion: Nancy stated that she has emailed her several times and information has been given on CE. On November 17, 2020 she had emailed and explained about the live webinars. Three months has gone by and if she doesn't understand, as a professional, she would be reaching out. If she was working on it, maybe, but she has 30 credits to go. Shaundra stated that she didn't want to set a precedent; we were negotiating, and she didn't do her part. Nancy stated she thinks they both will probably end up the same way.

Wendy Mankie moved to rescind the settlement agreement; Nancy Overson seconded the motion. Discussion. Pat restated Allyson's recommendation to rescind the settlement agreement, make a motion to deny her license, and give her 30 days to request an administrative hearing. Wendy amended her motion to rescind the settlement agreement with Francie Berg, deny her license and give her 30 days to request an administrative hearing; Nancy seconded the motion. Roll Call Vote: Yeas – Brooke, Nancy, Linda, Wendy and Shaundra. Passed: 5 Yays, 0 Nays. A vote was called for on the motion. No further discussion was held. Roll Call Vote: Yeas – Brooke, Nancy, Linda, Wendy and Shaundra. Passed: 5 Yays, 0 Nays.

Brooke mentioned that she still has LN listed on her website, may have to ask her to take it down.

VII. Fiscal Year 2020 Annual Report Approval Letter

Pat provided a copy of the Jan. 7, 2021 letter from the Office of the State Auditor. The annual report of NDBODP for the year ended September 2020 has been reviewed and approved by their office. Based on the review, there were no findings.

VIII. Legislative Update

- **SB 2187 (proposed changes to the dietetics licensure law)** – Brooke reported that SB 2187 passed 5 Yays, 0 Nays, 1 absent in the Senate Human Services Committee and in the Senate with 47 Yays, 0 Nays.
- **HB 1472 (bill on alternative and complementary care)** – Brooke reported that the bill received a do not pass vote from the human services committee of 8 – 6 and failed in the house yesterday with 16 Yays and 78 Nays. Pat reported that some of the same groups, Cross Fit and Wholistic Council, provided testimony in support of this bill. Representative Ertelt provided in his testimony on the House floor about the rising rates for diabetes, obesity, mental health and that our health care providers need help and that we lag behind other states. Pat commented that it appeared that some of the groups that wanted to be exempt from licensure 2 years ago to provide nutrition information were part of this legislative initiative.

IX. Hire new Executive Secretary by April 2021 with transition to start in May

Pat reported that she has one applicant thus far for the executive secretary position and

that a couple of other people have expressed interest. The goal is to get someone hired in April and start transitioning in May. Pat reported that any board interviews would require public meeting and that salary discussions could be private. Shaundra mentioned that she wouldn't mind having one board member work with Pat to select someone. Linda said that a person that doesn't work with the board doesn't understand; a former board member might be good. It was delegated by the board that Pat and one current board member interview the applicants. Linda Schloer agreed to assist with the interviews. Once the applications are in Pat and Linda will determine a date/time that works with the applicants.

X. Other

Pat asked to discuss an email that she received yesterday from Julie Spotts from the ND Bureau of Criminal Investigation. The email is:

I have forwarded SB 2187 to the FBI for their review. I received an email today that states: Section 14. Amendment. Section 43-44-12 states: "An applicant for a provisional license shall file a written application with the board, submit any fees required by the board, complete a criminal history background check if requested by the board, and"

Please define provisional license and indicate where the definition is located.

What I've seen in the past is that this has to be defined in statute before the FBI approves. As I stated in my voicemail, I see that it has passed in the Senate so it will need a change when it goes to the House. If you have any questions, please give me a call.

Pat requested that we have Allyson Hicks look into this; this was concurred by the board.

XI. Adjourn

Linda Schloer moved to adjourn the meeting; Shaundra Ziemann-Bolinske seconded the motion. Passed. The meeting was adjourned at 10:21 a.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Pat Anderson".

Pat Anderson, NDBODP Executive Secretary