North Carolina Medical Board
Policy Committee Meeting
Wednesday, September 16, 2015

Committee Members: Mr. Arnold, Chairperson; Dr. Udekwu; Dr. B. Walker; Dr. Lietz and Ms. Meelheim

1. New Business:

    a. Position Statement Review

        i. Referral fees and fee splitting

2. Old Business:

    a. Office Based Procedures**

    b. Physician supervision of other licensed health care providers

3. Position Statement Review tracking chart

North Carolina Medical Board
Policy Committee Meeting
Wednesday, May 13, 2015

1. New Business:

    a. Position Statement Review

        i. Referral fees and fee splitting

CURRENT POSITION STATEMENT:

Referral fees and fee splitting

Payment by or to a licensee solely for the referral of a patient is unethical. A licensee may not accept payment of any kind, in any form, from any source, such as a pharmaceutical company or pharmacist, an optical company, or the manufacturer of medical appliances and devices, for prescribing or referring a patient to said source. In each case, the payment violates the requirement to deal honestly with patients and colleagues. The patient relies upon the advice of the licensee on matters of referral. All referrals and prescriptions must be based on the skill and quality of the licensee to whom the patient has been referred or the quality and efficacy of the drug or product prescribed.

It is unethical for licensees to offer financial incentives or other valuable considerations to patients in exchange for recruitment of other patients. Such incentives can distort the information that patients provide to potential patients, thus distorting the expectations of potential patients and compromising the trust that is the foundation of the patient- licensee relationship.

Furthermore, referral fees are prohibited by state law pursuant to N.C. Gen. Stat. Section 90-401. Violation of this law may result in disciplinary action by the Board.

Except in instances permitted by law (NC Gen Stat §55B-14(c)), it is the position of the Board that a licensee cannot share revenue on a percentage basis with a non-licensee. To do so is fee splitting and is grounds for disciplinary action.

(Adopted November 1993) (Amended May 1996, July 2006, January 2012)

2. Old Business:

a. Office Based Procedures

At the May 2015 Policy Committee meeting, the Committee discussed potential review of the Office-Based Procedures position statement to conform to current standards. The Committee recommended referring the position statement to the Executive Committee for further discussion regarding the type and costs of such a review. The full Board accepted the Committee's recommendation and the matter is being considered by the Executive Committee at its September 2015 meeting.

b. Physician supervision of other licensed health care providers

At the July 2015 Policy Committee meeting, the Committee members discussed concerns about: (1) the potential for boundary violations between supervising physicians and their health care supervisees; and (2) the need to clarify the prohibition on supervisees owning a practice and employing their supervising physician. The Committee recommended, and the Board approved, bringing the position statement back to the Committee in September 2015 with proposed language to address both concerns. The current position statement and a proposed statement are included below.

CURRENT POSITION STATEMENT:

Physician supervision of other licensed health care practitioners

The physician who provides medical supervision of other licensed healthcare practitioners is expected to provide adequate oversight. The physician must always maintain the ultimate responsibility to assure that high quality care is provided to every patient. In discharging that responsibility, the physician should exercise the appropriate amount of supervision over a licensed healthcare practitioner which will ensure the maintenance of quality medical care and patient safety in accord with existing state and federal law and the rules and regulations of the North Carolina Medical Board. What constitutes an "appropriate amount of supervision" will depend on a variety of factors. Those factors include, but are not limited to:

- The number of supervisees under a physician's supervision
- The geographical distance between the supervising physician and the supervisee
- The supervisee's practice setting
- The medical specialty of the supervising physician and the supervisee
- The level of training of the supervisee
- The experience of the supervisee
- The frequency, quality, and type of ongoing education of the supervisee
- The amount of time the supervising physician and the supervisee have worked together
- The quality of the written collaborative practice agreement, supervisory arrangement, protocol or other written guidelines intended for the guidance of the supervisee
- The supervisee's scope of practice consistent with the supervisee's education, national certification and/or collaborative practice agreement

(Adopted July 2007) (Reviewed: September 2012)

PROPOSED POSITION STATEMENT:

Physician supervision of other licensed health care practitioners

The physician who provides medical supervision of other licensed healthcare practitioners is expected to provide adequate oversight. The physician must always maintain the ultimate responsibility to assure that high quality care is provided to every patient. In discharging that responsibility, the physician should exercise the appropriate amount of supervision over a licensed healthcare practitioner which will ensure the maintenance of quality medical care and patient safety in accord with existing state and federal law and the rules and regulations of the North Carolina Medical Board. What constitutes an "appropriate amount of supervision" will depend on a variety of factors. Those factors include, but are not limited to:

- The number of supervisees under a physician's supervision
- The geographical distance between the supervising physician and the supervisee
- The supervisee's practice setting
- The medical specialty of the supervising physician and the supervisee
- The level of training of the supervisee
- The experience of the supervisee
- The frequency, quality, and type of ongoing education of the supervisee
- The amount of time the supervising physician and the supervisee have worked together
- The quality of the written collaborative practice agreement, supervisory arrangement, protocol or other written guidelines intended for the guidance of the supervisee
- The supervisee's scope of practice consistent with the supervisee's education, national certification and/or collaborative practice agreement

Physicians should also be cognizant of maintaining appropriate boundaries with their supervisees, including refraining from requesting medical treatment or the issuance of prescriptions by the physician's supervisee. It is similarly inappropriate for a physician to work as an employee at a medical practice that is owned by the physician's supervisee.