

MINUTES

North Carolina Medical Board

February 20-21, 2008

**1203 Front Street
Raleigh, North Carolina**

Minutes of the Open Sessions of the North Carolina Medical Board Meeting February 20-21, 2008.

The February 20-21, 2008, meeting of the North Carolina Medical Board was held at the Board's Office, 1203 Front Street, Raleigh, NC 27609. The meeting was called to order at 8:06 a.m., Wednesday, February 20, 2008, by Janelle A. Rhyne, MD, President. Board members in attendance were: George L. Saunders, III, MD, President Elect; Ralph C. Loomis, MD, Secretary; Ms. Pamela Blizzard; Ms. Thelma Lennon; John B. Lewis, Jr., LLB; Peggy R. Robinson, PA-C; Janice E. Huff, MD; William A. Walker, MD; and Thomas R. Hill, MD. H. Arthur McCulloch, MD was present for February 21, 2008. Donald E. Jablonski, DO, Treasurer was not present.

Staff members present were: R. David Henderson, JD, Executive Director; Nancy Hemphill, JD, Special Projects Coordinator; Thomas W. Mansfield, JD, Legal Department Director; Brian Blankenship, Board Attorney; Marcus Jimison, JD, Board Attorney; Katherine Carpenter, JD, Board Attorney; Todd Brosius, JD, Board Attorney; Ms. Wanda Long, Supervisor of Legal Assistant; Ms. Lynne Edwards, Legal Assistant; Ms. Cindy Harrison, Legal Assistant; Mr. Curtis Ellis, Investigative Department Director; Ms. Dena Konkel, Public Affairs Assistant; Mrs. Joy D. Cooke, Licensing Director; Ms. Lori King, Physician Extender Coordinator; Ms. Quanta Williams, Physician Extender Coordinator; Michael Sheppa, MD, Medical Director; Scott Kirby, MD, Assistant Medical Director; Ms. Judie Clark, Complaint Department Director; Mr. Hari Gupta, Operations Department Director; Ms. Patricia Paulson, Registration Coordinator; Mrs. Janice Fowler, Operations Assistant; Mr. Peter Celentano, Comptroller; and Ms. Donna Stoker, Receptionist.

PRESIDENTIAL REMARKS

Dr. Rhyne commenced the meeting by reading from Governor Easley's Executive Order No. 1, the "ethics awareness and conflict of interest reminder." Dr. Hill reported that he would be recused in the Joseph Mullen, MD case. Judge Lewis reported that he, Dr. Loomis and Dr. Saunders were Panel members in the Chukwuemeka Felix Mbadiwe, MD case and would be recused from the final arguments.

MINUTE APPROVAL

Motion: A motion made by Dr. Saunders and seconded by Dr. Loomis was passed to approve the January 16-18, 2008, Board Minutes as presented.

FEDERAL OF STATE MEDICAL BOARDS - BOARD OF DIRECTORS REPORT

Robin Hunter-Buskey, PA-C gave the Board a report on the activities of the Board of Directors for the Federation of State Medical Boards. Ms. Hunter-Buskey informed the Board that George Barrett, MD will be presented with a lifetime achievement award at the Federation's annual meeting. Ms. Hunter-Buskey also stated that she and Dr. Rhyne were on the ballot for election to the Board of Directors at the annual meeting.

She further reported that the Board of Directors has been working on a report regarding the maintenance of competence for several years. The Federation agreed to accept the report from the committee and to deal with the issues of re-entry into practice separately. Maintenance of licensure for non-board certified physicians is another topic that will be dealt with later.

The 2008 Federation annual meeting will be held in May in San Antonio, Texas.

ANESTHESIOLOGIST ASSISTANT RULES

Published in NC Register: Volume 22, Issue 11 pages 1017 - 1021

Public Hearing: February 1, 2008, NC Medical Board

Comment Period ended: February 1, 2008

Mr. Jimison explained that the proposed rule had been adopted by the Board on December 14, 2007 as temporary rules in order to establish rules for licensing Anesthesiologist Assistants. Mr. Jimison reported that no written comments were submitted and that no one attended the public hearing for the purpose of making comments on the proposed permanent rules. Michael R. Borden, CAE, Executive Director of the North Carolina Academy of Physician Assistants attended the public hearing as an observer. The following rules were submitted to the Board for adoption:

21 NCAC 32W – ANESTHESIOLOGIST ASSISTANT REGULATIONS

21 NCAC 32W .0101 - Definitions

21 NCAC 32W .0102 – Qualifications for Licensure

21 NCAC 32W .0103 – Inactive Licensure Status

21 NCAC 32W .0104 – Annual Renewal

21 NCAC 32W .0105 – Continuing Medical Education

21 NCAC 32W .0106 – Student Anesthesiologist Assistants

21 NCAC 32W .0107 – Exemption from License

21 NCAC 32W .0108 – Scope of Practice

21 NCAC 32W .0109 – Supervision of Anesthesiologist Assistants

21 NCAC 32W .0110 – Limitations of Practice

21 NCAC 32W .0111 – Title and Practice Protection

21 NCAC 32W .0112 – Identification Requirements

21 NCAC 32W .0113 – Fees

21 NCAC 32W .0114 – Violations

21 NCAC 32W .0115 – Practicing During a Disaster

There was some discussion to clarify the number of Anesthesiologist Assistants that are allowed to be supervised at one time.

Motion: The Board unanimously adopted a motion made by Dr. Loomis and seconded by Ms. Robinson to approve the proposed Anesthesiologist Assistant rules.

NURSE PRACTITIONER CONTINUING EDUCATION RULE

Published in NC Register: Volume 22, Issue 09 page 807

Public Hearing: January 25, 2008, NC Board of Nursing

Comment Period ended: January 25, 2008

Mr. Jimison reported that a public hearing for the proposed rule amendment was held at the North Carolina Board of Nursing on January 25, 2008. Mrs. Long attended the public hearing on behalf of the Medical Board. Mr. Jimison reported that no written comments were

submitted and that no one attended the public hearing for the purpose of making comments on the proposed rule amendment.

21 NCAC 32M – APPROVAL OF NURSE PRACTITIONERS

21 NCAC 32M .0107 – CONTINUING EDUCATION (CE)

Motion: The Board unanimously adopted a motion made by Dr. Saunders and seconded by Dr. Loomis to approve the proposed rule amendment.

ALLIED HEALTH COMMITTEE REPORT

Vote list

The Board adopted a motion made by Dr. Saunders and seconded by Dr. Loomis to approve the following vote lists as presented.

Endorsement

Adem, Mukhtar
Allen, Rachel Diane
Anderegg, Mark R
Antony, Alvin Kandanatt
Asante, Kristi Amponsaa
Attiah, Nadir Monir
Avery, Caudrean L.
Aymond, James Kirk
Belskus, Blanca Lilia
Bernal, Steven David
Blair, Ellen Kay
Bonkovsky, Herbert Lloyd
Bovard, Scott Alan
Brammer, Jennifer Anne
Bryan, Leslie Jane
Bub, Lawrence David
Burri, Radha Chandana
Cabral, David Ismael
Camp, John Frederick
Childs, Christine Geier
Chintalapati, Sitarama Raju
Cortina, John Jeffery
Cymes, Karina
Darst, Marc Alan
Doss, Roderick Hugh
Drum, Hong Liu
Dziak, Jason Francis

Falkowitz, Jamie Scott
Farland, Sandra Bryant
Feinstein, Daniel Jay
Fisher, Jonathan Eliot Este
George, Rosalyn Elizabeth
Gismondi-Eagan, Carmella Louise
Goring, Kim Lesley
Gulla, Shannon Miller
Gupta, Nitin
Harpe, Charles Clifford
Harrer, David Stanley
Harris, William Lawrence
Hart, Patricia Ann
Horner, Brian John
Ingram, William Franklin
Jeyanandarajan, Dhiraj Raj
Jimenez-Medina, Evelyn Esther
Kandell, Thomas William
Kaneriya, Perry Purshottam
Kavali, Carmen Michelle
Kelley, Elizabeth Ann
Klett, Eric Leighton
Klett, Nicole Wertz
Lee, Ronald Vincent
Mattern, Matthew Lawrence
Maulsby, Gilbert Hawkins
Menendez, Carolyn Sue
Montany, Paul Francis
Moore, William Nicholas
Morgan, Elizabeth Sarah
Morton, Lasongia McShal
Neumann, Jennifer Lynn
Neuwirth, Charles Alan
Nguyen, Thao Phuong
Patel, Amit
Patel, Kshitij R
Patel, Mihir Ranchhodbhai
Peaker, Brandy Lenet
Pickens, Andrew Trice
Plemmons, John Kenneth
Pucilowska, Jolanta Bozena
Rafoth, Joshua Ben
Ramsay, Sarah Jane

Reid-Artist, Jacinth Marcia
Ricci, Donato Robert
Satyapriya, Ajay Simha
Scarpa, William John
Schmitt, Richard G.
Schottlander, Peter Emanuel
Seashore, Carl John
Shanks, Michael John
Sharp, Lindsey Sean
Simcoff, Lanny Bernard
Sindhwani, Navreet Sandhu
Smith, Gary Anthony
Steuer, Gebhard Josef
Stransky, Trew J.
Stripling, John Robert
Surendra, Rajini
Taylor, Nichole Lyn
Thurman, Cameron Mitchell
Trotta, Richard F.
Trzebiatowski, Margaret Irene
Urbanic, James John
Varner, Dwan Quennel
Westney, Gloria Elaine
Williams, Cassandra
Worriax, James Doyle
Yablon, Jeffrey Steven
Yanez, Miguel Angel
Zarzar, Theodore Rudolf
Zia, Amir

Reinstatement

Hoffman, Cary Joseph
Larson, Michael Joseph
Piscitelli, Thomas Anthony
Saba, Hussain Ismail
Yoon, David Anseung

Reactivation

Hoffman, Cary Joseph
Larson, Michael Joseph
Piscitelli, Thomas Anthony
Saba, Hussain Ismail
Yoon, David Anseung

Faculty Limited License

Parnell, Brent A

Pfaffenberger, Marta Ariel

Smith, John Morton

Tricoci, Pierluigi

NC PSYCHIATRIC ASSOCIATION

Dr. Hill reported that he and Mr. Henderson had attended a meeting with the executive committee of the NC Psychiatric Association. Dr. Hill stated that the committee voiced concerns about the questions regarding mental illness. Mr. Henderson recommended that the Board send the NC Psychiatric Association the questions asked on the Board annual renewal and welcome their comments. If the Association replies, the comments will be forwarded to the Medical Board's Licensing Committee.

Dr. Hill further reported that the Association had indicated that they would like to see a psychiatrist back on the Board. He stated that the Association was very interested in the Board's website and would like to put contact information for the Board in their publication.

MEDICAL MUTUAL INSURANCE COMPANY OF NORTH CAROLINA

Mr. Henderson reported that he and Dr. Jablonski met with representatives from Medical Mutual. Mr. Henderson reminded the Board that as a result of the Board's retreat last year, the Board has made an effort to engage more with Medical organizations.

HEARINGS

The hearings scheduled to be heard before the North Carolina Medical Board on February 20, 2008, began at 9:15 am as follows:

MBADIWE, Chukwuemeka, MD – Monroe, NC

Disciplinary

On September 29, 2006, the Board charged Dr. Mbadiwe based on action taken by Union Regional Medical Center revoking his privileges to perform endoscopic procedures and restricting his privileges to perform laparoscopic procedures.

Panel Hearing: June 20, 2007

Final Arguments: February 20, 2008

Dr. Mbadiwe was represented by U. Wilfred Nwauwa, but was not present for the Final Arguments.

The Board was represented by Brian Blankenship

PANEL RECOMMENDATION: (Judge Lewis, Dr. Loomis and Dr. Saunders) Phase I – The Panel found that Dr. Mbadiwe committed unprofessional conduct by failing to conform with standards of acceptable and prevailing medical practice and that Dr. Mbadiwe lacked professional competence to practice medicine and surgery, specifically endoscopic and laparoscopic procedures. Phase II – Indefinite Suspension.

Note: Judge Lewis, Dr. Loomis and Dr. Saunders were recused from the proceedings on February 20, 2008, as they were members of the Panel which made the recommendation based on evidence presented at the hearing on June 20, 2007.

2/20/2008 BOARD ACTION: Accept the recommendation of the Panel

MURRAY, Susan, PA – Raleigh, NC
Disciplinary

Ms. Murray was charged based on allegations that she practiced without an intent to practice form on file with the Board, having seen approximately 150 patients. Additionally, when questioned during an informal interview, Ms. Murray denied the allegations.

Hearing held on February 20, 2008

Dr. Murray was not represented by counsel and was not present for the hearing. The Board was represented by Todd Brosius.

2/20/2008 BOARD ACTION: Phase I – The Board answered yes to all issues. Phase II - Indefinite suspension, public reprimand, PHP evaluation, and Informal Interview

TITUS, Peter, PA
Out of State

Mr. Titus was charged based on action taken by the Colorado Board which placed his license to practice as a PA on indefinite probation subject to numerous terms and conditions.

Hearing held on February 20, 2008

Mr. Titus was not represented by counsel and was not present for the hearing. The Board was represented by Brian Blankenship.

2/20/2008 BOARD ACTION: Indefinite probation, Mr. Titus must comply with Colorado Order

The Board adjourned at 12:15pm and reconvened at 1:05 pm.

Mr. Mansfield discussed with the Board general procedural issues regarding the presentation of proposed Consent Orders.

PRESENTATION OF SETTLEMENT PROPOSALS

LINCOLN, Michael, MD – Weddington, NC
Disciplinary

No charges had been issued.

A proposed Consent Order was presented on February 20, 2008.

Dr. Lincoln was represented by Doug Brocker.
The Board was represented by Todd Brosius.

2/2008 BOARD ACTION: Accept proposed Consent Order

STROTHER, Eric Furman MD - Durham, NC

Disciplinary

Dr. Strother voluntarily surrendered his medical license on 8/31/2007. No charges had been issued.

A proposed Consent Order was presented on February 20, 2008.

Dr. Strother was represented by Jim Wilson.
The Board was represented by Todd Brosius.

2/2008 BOARD ACTION: Accept proposed Consent Order with an indefinite suspension.

QUILLEN, Rocky, PA – Wilmington, NC

Disciplinary

Mr. Quillen was charged with unprofessional conduct for fraudulently directing prescriptions to be issued to a patient under the prescribing authority of a physician and another physician assistant and for treating a close relative for a long-term, chronic illness.

The hearing was scheduled for February 20, 2008 was continued for the purposes of presenting a proposed Consent Order.

Mr. Quillen was represented by Jim Wilson.
The Board was represented by Todd Brosius.

2/2008 BOARD ACTION: Accept proposed Consent Order with a 60 day suspension starting March 1, 2008. Mr. Quillen must complete CME approved by NCPHP regarding prescribing.

DICKSON, Robert, MD – Kinston, NC

Disciplinary

Dr. Dickson was charged based on allegations that he practiced below acceptable and prevailing standards of medical practice.

The hearing scheduled for February 20, 2008, was continued for the purposes of presenting a proposed Consent Order.

Dr. Dickson was represented by Mike Weddington.
The Board was represented by Marcus Jimison.

2/2008 BOARD ACTION: Accept proposed Consent Order: Amend language to include targeted CME for conscious sedation.

MULLEN, Joseph, MD – Shelby, NC
Disciplinary

Dr. Mullen was charged based on allegations that he abruptly closed his practice and abandoned patients.

The hearing scheduled for February 20, 2008, was continued for the purposes of presenting a proposed Public Letter of Concern to resolve this case.

Dr. Mullen was represented by Ray Owens.
The Board was represented by Marcus Jimison.

2/2008 BOARD ACTION: Accept proposed Public Letter of Concern

The following cases were not heard at the February 20, 2008 meeting of the Board.

BOWMAN, James, MD - North Wilkesboro, NC
Licensure

Application for reinstatement was denied based on: 1. His past history; 2. Requirement for an intensive re-entry period and possible further training; 3. Criminal history; and 4. Probation violation in 2003.

Request for a hearing on the denial was withdrawn. The hearing scheduled for February 20, 2008 was not necessary.

Dr. Bowman was represented by Alan Schneider.
The Board was represented by Katherine Carpenter.

BUTTAR, Rashid, DO – Huntersville, NC
Disciplinary

Dr. Buttar was charged with practicing below acceptable and prevailing standards of medical practice as to four patients and in a manner as to exploit the patients.

The hearing scheduled for February 20, 2008, was continued to April 23, 2008.

Dr. Buttar was represented by Lisa Godfrey.
The Board was represented by Marcus Jimison.

FLECHAS, Jorge, MD – Hendersonville, NC
Disciplinary

Dr. Flechas was charged with practicing below the standard of care.

The hearing scheduled for February 20, 2008 was continued to April 23, 2008.

Dr. Flechas was represented by Jim Wilson.
The Board was represented by Katherine Carpenter.

HYMAN, Miles, MD – Franklin, NC
Disciplinary

Dr. Hyman was charged with unprofessional conduct for failing to adequately diagnose a patient and by treating that patient's condition with excessive quantities of narcotic medications.

The hearing scheduled for February 20, 2008 was continued to April 23, 2008.

Dr. Hyman was represented by Sean Timmons
The Board was represented by Todd Brosius.

PENDERGRAFT, James, MD – Orlando, FL
Out of State

Dr. Pendergraft was charged based on action taken by the Florida Board suspending his license. This action was the result of MD performing third trimester abortions outside of a hospital setting and without obtaining concurring physician opinions. He was also suspended for prescribing controlled substances without a valid DEA registration.

The hearing scheduled for February 20, 2008 was continued to April 23, 2008.

Dr. Pendergraft was not represented by counsel.
The Board was represented by Todd Brosius.

PHILIPS, Sherif, MD – Greenville, NC
Disciplinary

Dr. Philips was charged with unprofessional conduct for allegedly practicing below the standard of care in his nephrology practice.

The hearing scheduled for February 20, 2008 was continued to June 18, 2008.

Dr. Philips was represented by Michael Allen.
The Board was represented by Brian Blankenship

**CONSUMER ACCESS TO PHYSICIAN INFORMATION:
(Rulemaking and N.C. Gen. Stat. § 90-5.2)**

The Board met with members of the NC Medical Society Board of Directors and their staff at 6:00 pm to discuss the rulemaking in progress in connection with the passage of N.C. Gen. Stat. § 90-5.2 last year by the General Assembly, which provided for an expansion of the information regarding physicians and physician assistants that is available to the public. The NCMS members expressed concern about the Board's plans to publish some information about all medical malpractice payments reported to the Board on the Board web site in addition to making such information available to the public. The NCMS felt that it was important for the Board to determine which payments actually related to substandard medical care and to publish only that information. The NCMS felt that the Board should not publish information where the care rendered was within the standard of practice.

The meeting recessed at 9:00 pm.

The meeting reconvened Thursday, February 21, 2008 at 8:06 am.

At that time, the Board discussed its meeting with the NCMS from the night before. The Board discussed the feedback from several organizations, including the NCMS, regarding the rulemaking in connection with N.C. Gen. Stat. § 90-5.2.

Board Action:

Direct Legal to update the existing draft of the rules to include the following elements (in addition to or in substitute of those established at the January 2008 Board meeting):

- The Board will publish some information about every malpractice payment or judgment occurring in the preceding seven years (instead of ten years) based on date of payment.
- The information will be published without any minimum number or dollar amount of payments or judgments.
- The information will be published without any statement that the care was within or without the standard of practice.
- The Board will identify which payments or judgments were associated with patient care that led to a public action by the Board.
- The Board will provide the date of the occurrence leading to the payment or judgment.
- The Board will modify any physician/PA comments in the free text box that do not conform to the requirements of the rule.

The next meeting of the Board is scheduled for March 26, 2008.

ADJOURNMENT

This meeting was adjourned at 9:41 a.m., February 21, 2008.

Ralph C. Loomis, MD
Secretary