BOARD MEETING MINUTES

January 22 - 24, 2020

1203 Front Street
Raleigh, North Carolina

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held January 22 – 24, 2019.

The January 2020 meeting of the North Carolina Medical Board was held at 1203 Front Street, Raleigh, NC 27609. Bryant A Murphy, MD, President, called the meeting to order. Board members in attendance were: Bryant A. Murphy, MD, President; Venkata R. Jonnalagadda, MD, President-Elect; John W. Rusher, MD, Secretary/Treasurer; Ralph A. Walker, JD; Shawn P. Parker, JD; Varnell D. McDonald-Fletcher, PA-C; Michaux R. Kilpatrick, MD; Christine M. Khandelwal, DO; Jerri L. Patterson, NP; W. Howard Hall, MD; Joshua D. Malcolm, JD; Damian F. McHugh, MD; and Devdutta G. Sangvai, MD

PRESIDENTIAL REMARKS

Dr. Murphy reminded the Board members of their duty to avoid conflicts of interest with respect to any matters coming before the Board as required by the State Government Ethics Act. All conflicts were reported as included within the committee reports.

Dr. Murphy introduced the following guests who were here to observe, Dr. Palmer Edwards, President of the North Carolina Medical Society; Dr. Michael Ropero-Catier, University of North Carolina, Family Medicine and student guests, Haleigh Saari and Natalie Allcott of Campbell University.

Dr. Murphy introduced Olivia Smith, who is a part-time intern with the NCMB's Legal department.

PRESENTATIONS

Frayda Bluestein, Faculty at the University of North Carolina School of Government, provided training on Open Meetings Law and Public Records Act.

Brian Blankenship, NCMB Deputy General Counsel, provided training on Laws and Rules

NORTH CAROLINA PHYSICIAN HEALTH PROGRAM REPORTS (NCPHP)

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

Joe Jordan, PhD, CEO, North Carolina Physicians Health Program (NCPHP), gave the PHP Compliance Committee report. The specifics of this report are not included because the information contained in the report is confidential and non-public.

A motion passed to return to open session.

Dr. Jordan gave the Annual Financial, Performance, and Quality Assurance report.

NCMB ATTORNEY'S REPORT

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

Mr. Brian L. Blankenship, Deputy General Counsel and Mr. Thomas W. Mansfield, Chief Legal Officer, gave the Attorney's Report on Friday, January 24, 2020.

A motion passed to return to open session.

Mr. Blankenship and Mr. Mansfield presented statistical information regarding work performed by the Board's Legal Department since the last Attorney's Report.

Executed Cases - Public Actions:

The following actions were executed since the Board's last regularly scheduled meeting. The Board voted to accept these as information.

Blair, Jaclyn Adele PA
Reentry Agreement executed 01/07/2020

Clifton, Mary Belle Rose MD
Public Letter of Concern executed 12/19/2019

Fox, Olin Mackay MD
Consent Order executed 11/22/2019

Greer, Gary Wayne MD
Non-Disciplinary Consent Order executed 12/17/2019

Jemsek, Joseph Gregory MD
Order Allowing Relief executed 12/17/2019

Killian, Frank Andreas MD
Non-Disciplinary Consent Order executed 12/10/2019

Matthews, Robert Charles MD
Reentry Agreement executed 12/06/2019

McDonald, Janice Adelaide MD
Relief of Consent Order Obligations executed 12/16/2019

McKinney, Kaitlynn Danielle PA
Consent Order executed 12/06/2019

Raines Ill, Lawrence Merial MD
Consent Order executed 12/03/2019

Sass, Maria LP
Relief of Consent Order Obligations executed 12/19/2019

Schwarz, Dayna Patricia MD
Supplemental Denial of Licensure executed 11/12/2019

Stewart, Douglas Taylor PA
Public Letter of Concern executed 1/7/2020

Trapp, Benjamin Allen MD
Public Letter of Concern executed 11/20/2019

Vishakantaiah, Nagaraja MD
Consent Order executed 12/17/2019

Warren NP, Perihan
Public Letter of Concern executed 11/19/2019

Wolicki-Shannon, Joanna MD
Public Letter of Concern executed 12/04/2019

Zabenko, Robert Tracy DO

Consent Order executed 11/26/2019

A motion passed to close the session pursuant to N.C. Gen Stat. §143-318.11(a) to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, 90-21.22 of the North Carolina General Statutes and not considered public records within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney/client privilege.

Information regarding pending outside litigation was presented by Mr. Mansfield.

A motion was passed to return to open session.

Strategic Priorities Update

Following a retreat in late 2018, the Board approved four strategic priorities and eight goals (two per priority). The Board voted to focus on three goals for 2019: Implement formal Board member training, education and professional development program; adopt and execute future office plan to address space and physical environment issues; and identify regulatory issues arising from healthcare transformation and develop appropriate policies or programs to be more proactive. A final report was given regarding those goals.

The Board agreed to split the remaining goals over the next two years. In 2020, the Board will work on the following goals: Implement a public outreach program to improve the public's understanding of the Board's role and value; implement a data analytics program to support evidence-based regulation and focused licensee education; and engage, via a targeted communications approach, non-legislative policymakers and influencers by positioning NCMB as a trusted subject matter expert. In 2021, the Board will work on the following goals: continue and enhance other outreach efforts to build on recent success and stakeholder appreciation; and engage, via a targeted communications approach, legislative policymakers and influencers by positioning NCMB as a trusted subject matter expert.

Staff will apply the Logic Model (or a similar measurement tool) to come up with proposed activities and measures for the 2020 goals. These will be presented to the Board at the March 2020 meeting.

No action required.

NCMB COMMITTEE REPORTS

Executive Committee Report

Members present were: Bryant A. Murphy, MD, Chairperson; Venkata R. Jonnalagadda, MD; John W. Rusher, MD; Jerri L. Patterson, NP and Shawn P. Parker, JD.

Financial Update

a. Year-to-Date Financials

The Committee reviewed the following financial reports through December 31, 2019: Balance Sheet; Profit & Loss versus Budget; and the Profit & Loss Comparison.

Committee Recommendation: Accept the financial information as reported.

Board Action: Accept Committee recommendation. Accept the financial information as reported.

b. Investment Account

The Committee reviewed the investment statements for November and December 2019.

Committee Recommendation: Accept the investment statements as information.

Board Action: Accept Committee recommendation. Accept the investment statements as reported.

c. Year-End Financial Audit Report

Chris Duffus, CPA, Koonce, Wooten & Haywood, LLP, met with the Executive Committee to present the Year-End Financial Statement Audit Report for the fiscal year ending on October 31, 2019.

According to the Independent Auditor's Report: "In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities of North Carolina Medical Board, as of October 31, 2019 and 2018, and the respective changes in financial position and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America."

Committee Recommendation: Accept the Year-End Financial Statement Audit Report as reported.

Board Action: Accept Committee recommendation. Accept the Year-End Financial Statement Audit Report as reported.

Old Business

a. Office Space Project Report

Jessica Bossiere, HH Architecture, and the NCMB Phase Three Office Space Project Team gave an update regarding the design development of the Board's office building on Smoketree Court.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. 1203 Front Street Update

Mr. Henderson gave an update on the contract to sell the Board's current office at 1203 Front Street. The closing is tentatively scheduled for November 1, 2020.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

c. Proposed Change to CME Rules

21 NCAC 32R .0101 "Continuing Medical Education (CME) Required" sets forth the CME requirements for physicians. 21 NCAC 32S .0216 "Continuing Medical Education" sets forth the CME requirements for physician assistants (PA).

At the September 2019 meeting, the Board approved the Executive Committee's recommendation to amend the above rules to give licensees more options regarding the mandatory controlled substances CME requirement and make other stylistic changes.

The proposed amendments were published in the North Carolina Register on November 1, 2019. The public hearing was held on December 3, 2019, and no one attended the hearing. The required comment period ended on December 31, 2019, and no comments were received.

If approved by the Rules Review Commission, the earliest effective date of the rules is April 1, 2020.

Copies of the rules are attached as Appendixes A and B.

Committee Recommendation: Approve the proposed amended rules for submission to the Rules Review Commission.

Board Action: Accept Committee recommendation. Approve the proposed amended rules for submission to the Rules Review Commission.

New Business

a. 2020 Staff Goals

Each year, staff prepares Staff Performance Goals (SPGs). There are four types of SPGs: licensing and renewal, enforcement, policy and education, and efficiencies. Mr. Henderson presented the Staff Performance Goals for 2020.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. Leadership Training Retreat Update

Mr. Henderson provided an update on the Board's leadership training retreat scheduled for August 7 – 9.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

Policy Committee Report

Members present were: Shawn P. Parker, JD, Chairperson; Venkata R. Jonnalagadda, MD; Christine M. Khandelwal, DO; Joshua D. Malcolm, JD; Devdutta G. Sangvai, MD; and Ralph A. Walker, JD

Old Business:

a. Licensee Use of Innovative or New Treatment (Appendix C)

The Committee reviewed a redline version of the most recent draft of the position statement and explained the intent of the changes was to remove the language related to referrals and clinical trials. Representatives from the North Carolina Integrative Medical Society addressed the Committee about their remaining concerns. The Committee addressed some of those concerns by noting the position statement is not

directed at any specific sector or healthcare population and is aimed at innovative and not integrative treatment. Staff stated that the position statement directly aligns with one of the 2020 strategic priorities of the Board and the Board's vision statement.

Committee Recommendation: Accept redline of position statement and publish new position statement.

Board Action: Accept Committee recommendation. Accept redline of position statement and publish new position statement.

b. Sale of Goods from Physician Offices

During the Committee meeting, staff provided an overview of their contact with the North Carolina Veterinary Medical Board and North Carolina State Board of Dental Examiners and explained that neither board had policies, position statements, rules, or regulations regarding sale of goods, nor had there been concern about the sale of goods. Staff briefly overviewed the South Carolina Board of Medical Examiners policies on the sale of goods. The Committee's consensus was that the Board's current position statement was still relevant and up-to-date. Staff advised that while we do field questions from licensees, we have received very few complaints from the public about the sale of goods from medical practices.

Committee Recommendation: Note review of position statement. No changes.

Board Action: Accept Committee recommendation. Note review of position statement. No changes.

c. Position Statements Review Workgroup

Staff detailed the plan for moving forward within the workgroup, including creating a compendium of the position statements organized by subject matter and utilizing an index system. It was agreed that the Board's position statement "What are the position statements of the Board and to whom do they apply?" should be used as guidance for the compendium and paring down process.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

d. Position Statements Review Workgroup

Staff detailed the plan for moving forward within the workgroup, including creating a compendium of the position statements organized by subject matter and utilizing an index system. It was agreed that the Board's position statement "What are the position statements of the Board and to whom do they apply?" should be used as guidance for the compendium and paring down process.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

New Business:

a. Writing of Prescriptions

The Committee discussed the need to make some technical revisions to the current position statement so that it is consistent with the STOP Act and includes an electronic prescribing component. Staff was directed to contact stakeholders and other statewide groups to inquire about how their individual electronic prescribing software works and any concerns they may have. The Committee will then review those comments and revise the position statement in such a way to harmonize the concerns with the law. Due to everchanging technology, it was agreed that any revision should provide general principals about what components of prescribing are important, instead of providing specifics on what prescriptions should look like.

Committee Recommendation: Staff to contact stakeholders and other statewide groups to solicit feedback and concerns about individual electronic prescribing software. Bring back comments and a proposed draft of a revised position statement to the Committee.

Board Action: Accept Committee recommendation. Staff to contact stakeholders and other statewide groups to solicit feedback and concerns about individual electronic prescribing software. Bring back comments and a proposed draft of a revised position statement to the Committee.

b. Laser Surgery

Staff provided a genesis of the position statement, including reference to the Board's guidance document which was created to address concerns raised by the FTC after the adoption of the position statement. The document is used in conjunction with the position statement to clarify the Board's perspective about its position regarding laser surgery. The Committee reviewed the current position statement favorably and felt no changes were needed at this time.

Committee Recommendation: Note review of position statement. No changes.

Board Action: Accept Committee recommendation. Note review of position statement. No changes.

Licensing Committee Report

Members present were: Christine M. Khandelwal, DO, Chairperson; John W. Rusher, MD; Varnell D. McDonald-Fletcher, PA-C; Shawn P. Parker, JD; Jerri L. Patterson, NP; W. Howard Hall, MD; and Damian F. McHugh, MD

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The License Committee reviewed seven cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

License Interview Report

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

Five licensure interviews were conducted. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Advanced Practice Providers and Allied Health Committee Report

Members present were: Varnell D. McDonald-Fletcher, PA-C, Chairperson; John W. Rusher, M.D.; Michaux R. Kilpatrick, MD; W. Howard Hall, MD; Damian F. McHugh, MD; and Jerri L. Patterson, NP

New Business:

a. Emily Adams, Executive Director, NC Academy of Physician Assistants ("NCAPA"), introduced two physician assistants who were attending the APP & AHC meeting for the first time. At the March 2020 meeting, the NCAPA intends to request repeal of the Board rule requiring the physician assistant's license number to appear on a prescription.

   Committee Recommendation: Accept as information.

   Board Action: Accept Committee recommendation. Accepted as information.

b. NC Office of Emergency Medical Services. Ketamine Pilot Program Update. James Tripp Winslow, MD, MPH, Medical Director, NC OEMS, and David Ezzell, NC OEMS EMS Education Consultant, updated the Committee on the progress of the pilot program, including providing current statistics as to adverse events.

   Committee Recommendation: Approve March 31, 2020 as the conclusion of the pilot program. Review submitted data for discussion at the March 2020 APP & AHC.

   Board Action: Accepted Committee recommendation. Approve March 31, 2020 as the conclusion of the pilot program. Review submitted data for discussion at the March 2020 APP & AHC.

c. Nurse Practitioner Rule Changes. (Appendix D) The Board of Nursing completed a comprehensive review of current nurse practitioner rules and proposed amendments to twelve rules. The amendments mostly reflect modernization of language about the Board of Nursing's processes. Substantive changes include: adding two more reports from the Department of Health and Human Services regarding the Boards' Safe Opioid Prescribing Initiative; adding more options to satisfy the targeted continuing education requirement for nurse practitioners who prescribe controlled substances; and adding language prohibiting nurse practitioners prescribing controlled substances to a patient for whom the nurse practitioner is having a physical, sexual, or intimate emotional relationship.

   Committee Recommendation: Approve rule changes.

   Board Action: Accept Committee recommendation. Approve rule changes.

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to

Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The APP and AHC received as information a report from the Nurse Practitioner Joint Subcommittee ("JSC") Panel ("Panel"). The Panel's written report was presented for the Board's review, where it was also received as information. The JSC Panel Recommended Action Grid is attached.

A motion passed to return to open session.

Disciplinary (Complaints) Committee Report

Members present were: Michaux R. Kilpatrick, MD, Chairperson; Christine M. Khandelwal, DO; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Joshua D. Malcolm, JD; Shawn P. Parker, JD; and Devdutta G. Sangvai, MD

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Complaints) Committee reviewed 26 complaint cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

Disciplinary (Malpractice) Committee Report

Members present were: Michaux R. Kilpatrick, MD, Chairperson; Christine M. Khandelwal, DO; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Joshua D. Malcolm, JD; Shawn P. Parker, JD; and Devdutta G. Sangvai, MD

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Malpractice) Committee reviewed 26 cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Disciplinary (Investigative) Committee Report

Members present were: Michaux R. Kilpatrick, MD, Chairperson; Christine M. Khandelwal, DO; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Joshua D. Malcolm, JD; Shawn P. Parker, JD; and Devdutta G. Sangvai, MD

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Investigative) Committee reviewed 41 investigative cases. A written report was presented for the Board's review. The Board adopted the recommendations and approved the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Investigative Interview Report

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

Eight interviews were conducted. A written report was presented for the Board's review. The Board adopted the recommendations and approved the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Outreach Committee Report

Members present were: Venkata R. Jonnalagadda, MD, Chairperson; Michaux R. Kilpatrick, MD; and Ralph A. Walker, JD.

Old Business

a. Update on presentations
    1) Professional presentations
    2) Consumer presentations

    The Communications Director and Chief Communications Officer gave an update on professional and public outreach efforts. An upcoming presentation at the Durham VA will be live streamed to other VA facilities across North Carolina, reaching primary care providers and specialists. NCMB is continuing to expand its public outreach program, with a particular emphasis on public health fairs, three of which have been confirmed so far this year. Communications staff will present a session for staff in early February on participating in outreach, with a goal of involving more staff at all levels of the organization in NCMB's efforts.

    Committee recommendation: Accept as information.

    Board action: Accept Committee recommendation. Accept as information.

b. Board Book Tutorial Update

    The Committee received an update on a recent video tutorial developed to orient new Board Members to the software used to access Board Meeting materials. The Communications Department appreciated the opportunity to work on the project and plans to integrate more video projects into its communications strategies for public and internal audiences.

    Committee recommendation: Accept as information.

    Board action: Accept Committee recommendation. Accept as information.

c. "Suicide in Healthcare" discussion on NCMB's role
    Committee, staff and visitors engaged in a wide-ranging discussion of how NCMB meaningfully address the topic of suicide in healthcare. The Committee discussed the possibility of highlighting specific issues, such as stigma, facts about suicide in healthcare, systemic issues, and resources for those who may need help or know someone who does. One possibility: a future issue of NCMB's licensee newsletter dedicated to suicide in healthcare. This would be one way to signal NCMB's interest in the issue, as well as to raise awareness. Other ideas include working with stakeholders

to develop outreach and education. For example, NCMB could collaborate with NCPHP (and perhaps others) to ensure that medical students, residents and other professional audiences are aware of NCPHP and other resources available to help medical professionals who may need assistance.

Committee recommendation: Direct staff to continue exploring ways for NCMB to draw attention to suicide in healthcare and direct licensees and other health professionals to assistance and resources.

Board action: Accept Committee recommendation. Direct staff to continue exploring ways for NCMB to draw attention to suicide in healthcare and direct licensees and other health professionals to assistance and resources.

New Business

a. Annual Report preview and production schedule

The Communications Director gave a brief update on production of the 2019 Annual Report. A digital version of the report will be completed in early March and presented to Board Members at the March 2020 Board Meeting.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

b. Other outreach activities
    1) Closed captioning on complaint tutorial
    2) Campbell PA Program engagement

The Committee received updates on two recent projects. First, NCMB added closed captions to its Complaint Tutorial video to make this resource accessible to the deaf and hard of hearing. The Communications Director is investigating whether the tutorial can also be translated into Spanish. Next, the Committee received an update on a February 12, 2020 course NCMB will present at Campbell University's PA Program. The course will include a 30-minute lecture and a one hour mock Disciplinary Committee experience led by NCMB Immediate Past President Barbara Walker. This program is based on the course developed for Campbell University's School of Osteopathic Medicine and presented on November 1, 2019.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

ADJOURNMENT

The Medical Board adjourned at 11:31 a.m. on Friday, January 24, 2020.

The next meeting of the Medical Board is scheduled for March 18 - 20, 2020.

John W. Rusher, MD; Secretary/Treasurer

SUBCHAPTER 32R – CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS

SECTION .0100 – CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS

21 NCAC 32R .0101 is proposed for amendment as follows:

21 NCAC 32R .0101 CONTINUING MEDICAL EDUCATION (CME) REQUIRED

(a) Continuing Medical Education (CME) is defined as education, training, and activities to increase knowledge and skills generally recognized and accepted by the profession as within the basic medical sciences, the discipline of clinical medicine, and the provision of healthcare to the public. The purpose of CME is to maintain, develop, or improve the physician's knowledge, skills, professional performance, and relationships ~~that a physicians use~~ physician uses to provide services for their ~~patients,~~ patients ~~their~~ and practice, the public, or ~~the~~ profession.

(b) ~~Each person~~ A physician licensed to practice medicine in the State of North Carolina, except those physicians holding a residency training license, shall complete at least 60 hours of Category 1 CME relevant to the physician's current or intended specialty or area of practice every ~~three~~3 years. ~~Beginning on July 1, 2017, every~~ Every physician who prescribes controlled substances, except those physicians holding a residency training license, shall complete at least ~~three~~ 3 hours of ~~CME,~~ CME from the required 60 hours of Category 1 ~~CME, that is~~ CME designed specifically to address controlled substance prescribing practices. The controlled substance prescribing CME shall include instruction on controlled substance prescribing ~~practices, recognizing signs of the abuse or misuse of controlled substances,~~ practices and controlled substance prescribing for chronic pain management. CME that includes recognizing signs of the abuse or misuse of controlled substances, or non-opioid treatment options shall qualify for the purposes of this rule.

(c) The ~~three year~~ three-year period described in Paragraph (b) of this Rule begins on the physician's ~~first~~ birthday following the ~~initial licensure.~~issuance of his or her license.

History Note: Authority G.S. 90-5.1(a)(3); 90-5.1(a)(10); 90-14(a)(15); S.L. 2015-241, s. 12F.16(b) and 12F.16(c);
Eff. January 1, 2000;
Amended Eff. August 1, 2012; January 1, 2001;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;
Amended Eff. _____; September 1, 2016.

21 NCAC 32S .0216 is proposed for amendment as follows:

21 NCAC 32S .0216 CONTINUING MEDICAL EDUCATION

(a) A physician assistant shall complete at least 50 hours of ~~continuing medical education~~ Continuing Medical Education (CME) every ~~two~~ 2 years. The CME shall be recognized by the National Commission on Certification of Physician Assistants (NCCPA) as Category I CME. ~~A~~ The physician assistant shall provide CME documentation for inspection by the ~~board~~ Board or its agent upon request. The ~~two year~~ two-year period shall begin on the physician assistant's ~~first~~ birthday following ~~initial licensure.~~the issuance of his or her license.

(b) ~~Beginning on July 1, 2017, a~~ A physician assistant who prescribes controlled substances shall complete at least ~~two~~ 2 hours of CME, from the required 50 hours, designed specifically to address controlled substance prescribing practices. The controlled substance prescribing CME shall include instruction on controlled substance prescribing practices~~, recognizing signs of the abuse or misuse of controlled substances,~~ and controlled substance prescribing for chronic pain management. CME that includes recognizing signs of the abuse or misuse of controlled substances, or non-opioid treatment options shall qualify for purposes of this rule.

(c) A physician assistant who possesses a current certification with the NCCPA shall be deemed in compliance with the requirement of Paragraph (a) of this Rule. The physician assistant shall attest on his or her annual renewal ~~that he or she is~~ they are currently certified by the NCCPA. Physician assistants who attest ~~that~~ they possess a current certificate with the NCCPA shall not be exempt from the controlled substance prescribing CME requirement of Paragraph (b) of this Rule. A ~~Physician Assistants~~ physician assistant shall complete the required two hours of controlled substance CME unless ~~such~~ the CME is a component part of their certification activity.

History Note: *Authority G.S. 90-5.1(a)(3); 90-5.1(a)(10); 90-18.1; S.L. 2015-241, 12F.16(b) and 12F.16(c);*
Eff. September 1, 2009;
Amended Eff. May 1, 2015; November 1, 2010;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;
Amended Eff. September 1, 2016.

Licensee Use of Innovative or New Treatment

The North Carolina Medical Board ("Board") recognizes that progress in medical science, advances in patient care, and improved outcomes require exploration of innovative treatment and new technology. While the Board supports licensee use of scientifically valid research and innovation, it is the Board's position that licensees must guard against exaggerating or overpromising benefits of participation in research or use of novel or off-label treatment when there is insufficient data to support claims made for the treatment.

The Board acknowledges there are a wide variety of circumstances which may lead a licensee to recommend new or innovative treatment. For example, there may be different considerations when a conventional treatment has failed and a patient wants to individually undertake off-label or novel use of an existing drug or therapy. Licensees must balance respect for patients' autonomy in seeking treatment options against the need to safeguard patients from the risks of novel, but often unproven, treatment.

Licensees offering innovative or novel treatments should:

- Make treatment decisions in the best interest of the patient and use their knowledge and skill for the patient's benefit. Conflicting interests should be resolved to the benefit of the patient.
- Ensure all information, especially in terms of risks, benefits, and efficacy, is presented in an objective and honest manner. Where information is absent or equivocal this should also be communicated to the patient.
- Ensure the patient clearly understands why the new treatment is recommended, its purpose, and how it is different from current or conventional treatment.
- Refrain from using advertising that contains deceptive, false, or misleading claims.
- Avoid promotional "tokens of legitimacy" which might include patient or celebrity endorsements, marketing using various certifications, awards, or citations of licensee affiliation or membership in academic or professional societies connected with the service or product.
- Understand the relevant clinical issues of the treatment offered and have received sufficient education and training from qualified sources regarding the modality to provide treatment in a competent, safe and effective manner.
- Maintain detailed, accurate documentation of the course of treatment and outcomes that includes adverse events, identified both during and after treatment, and which should be communicated to patients in a forthright and timely fashion. New information which may come to light following treatment should also be communicated to the patient.
- Recognize the licensee retains responsibility for patient care and management when using clinical decision-making support tools such as augmented or artificial intelligence.
- Comply with relevant federal, state, and agency laws and regulations.

These guidelines are important in maintaining mutual trust between patient and licensee, protecting patient autonomy, and obtaining meaningful informed consent. The Board's position statement on "The Physician-Patient Relationship" may also be helpful to licensees as they consider these issues.

BOARD ACTION

APP & AHC Committee
January 24, 2020

NURSE PRACTITIONERS

21 NCAC 32M .0101 Definitions

21 NCAC 32M .0102 Scope of Practice

21 NCAC 32M .0103 Nurse Practitioner Registration

21 NCAC 32M .0104 Process for Approval to Practice

21 NCAC 32M .0105 Ed and Cert Req Reg

21 NCAC 32M .0106 Annual Renewal

21 NCAC 32M .0107 Continuing Education (CE)

21 NCAC 32M .0108 Inactive Status

21 NCAC 32M .0109 Prescribing Authority

21 NCAC 32M .0110 Quality Assurance Standards for a Collaborative Practice Agreement

21 NCAC 32M .0112 Disciplinary Action

21 NCAC 32M .0115 Reporting Criteria

At its January 2020 meeting, the Board approved the Advanced Practice Providers & Allied Health Committee recommendation to approve the attached proposed rule changes.

Committee Recommendation: Approve the proposed amendments to the above listed and attached rules.

BOARD ACTION: Accept Committee recommendation. Approve the proposed amendments to the above listed and attached rules.

Memorandum

TO: Advanced Practice Practitioners and Allied Health Committee

FROM: Marcus Jimison

DATE: January 9, 2020

RE: Nurse Practitioner Rule Changes

The Board of Nursing has completed a comprehensive review of the rules pertaining to nurse practitioners. Attached are twelve rule amendments. The proposed amendments mostly reflect modernization of language and the Board of Nursing processes. At least one rule amendment is to correct a long-standing typographical error (21 NCAC 32M .0112 Disciplinary Action). Because nurse practitioners are jointly regulated by the Medical Board and the Board of Nursing, each board must pass any and all rule changes. The rules for nurse practitioners for both boards mirror one another.

A few rule amendments do involve substantive changes. In Rule 21 NCAC 32M .0115 Reporting Criteria, the amendment adds two additional reports from the DHHS Controlled Substance Registering regarding nurse practitioner prescribing. These reports, known as SOPI reports, generated from the Board's Safe Opioid Prescribing Initiative, provide information that the Board believes may help identify problematic prescribing. The proposed additional two reports are Report C and D. Report C is already in effect for physicians and physician assistants and helps identify prescribers whose patients may be engaged in opioid-seeking behavior and doctor-shopping. Report D seeks information about prescribers who may be prescribing high doses to opioid-naïve patients. The Medical Board has already approved a rule change to Report D for physicians and physician assistants.

Rule 21 NCAC 32M .0107 adds additional options for the continuing education requirement for those nurse practitioners who prescribe controlled substances. A similar change is presently being considered by the Board for physicians and physician assistants.

Rule 21 NCAC 32M .0109 makes clear that nurse practitioners shall not prescribe controlled substances to a patient for whom the nurse practitioner is having a physical, sexual, or intimate emotional relationship. A similar prohibition exists in the rules for physicians and physician assistants.

Staff Recommendation: Approve all proposed rule amendments.

SECTION .0800 - APPROVAL AND PRACTICE PARAMETERS FOR NURSE PRACTITIONERS

21 NCAC 32M .0101 DEFINITIONS

The following definitions apply to this Section:

(1) "Approval to Practice" means authorization by the Joint Subcommittee of the Medical Board and the Board of Nursing for a nurse practitioner to ~~perform medical acts~~ practice within her or his area of educational preparation and certification under a collaborative practice agreement ~~(CPA)~~ with a ~~licensed~~ physician licensed by the Medical Board in accordance with this Section.

(2) "Back-up Supervising Physician" means ~~the~~ a ~~licensed~~ physician licensed by the Medical Board who, by signing an agreement with the nurse practitioner and the primary supervising physician(s) shall provide supervision, collaboration, ~~consultation~~ consultation, and evaluation of medical acts by the nurse practitioner in accordance with the collaborative practice agreement when the ~~Primary Supervising Physician~~ primary supervising physician is not available. Back-up supervision shall be in compliance with the following:

(a) The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.

(b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up supervising physician.

(c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation and has a signed collaborative practice agreement with the nurse practitioner and the primary supervising physician may be a back-up supervising physician for a nurse practitioner in the non-training situation.

(3) ~~"Board of Nursing"~~ "Board" means the North Carolina Board of Nursing.

(4) "Collaborative practice agreement" means the arrangement for nurse practitioner-physician provides for continuous availability to each other for ongoing supervision, consultation, collaboration, ~~referral~~ referral, and evaluation of care provided by the nurse practitioner.

(5) ~~"Disaster"~~ "Emergency" means a state of ~~disaster~~ emergency as defined in ~~G.S. 166A-4(1a)~~ G.S. 166A-19.3 and proclaimed by the Governor, or by the General ~~Assembly pursuant to G.S. 166A-6.~~ Assembly.

(6) "Joint Subcommittee" means the subcommittee composed of members of the Board ~~of Nursing~~ and members of the Medical Board to whom responsibility is given by G.S. 90-8.2 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.

(7) "Medical Board" means the North Carolina Medical Board.

(8) "National Credentialing Body" means one of the following credentialing bodies that offers certification and re-certification in the nurse practitioner's specialty area of practice:

(a) American Nurses Credentialing Center (ANCC);

(b) American Academy of Nurse Practitioners ~~(AANP);~~ National Certification Board (AANPNCB);

(c) American Association of Critical Care Nurses Certification Corporation (AACN);

(d) National Certification Corporation of the Obstetric Gynecologic and Neonatal Nursing Specialties (NCC); and

(e) the Pediatric Nursing Certification Board (PNCB).

(9) "Nurse Practitioner" or "NP" means a ~~currently licensed~~ registered nurse who holds an active unencumbered license approved to ~~perform medical acts~~ practice consistent with the nurse's area of nurse practitioner academic educational preparation and national certification under an agreement with a ~~licensed~~ physician licensed by the Medical Board for ongoing supervision, consultation, ~~collaboration~~ collaboration, and evaluation of the medical acts performed. Such medical acts are in addition to those nursing acts performed by virtue of registered nurse (RN) licensure. The NP is held accountable under the RN license for those nursing acts that he or she may perform.

(10) "Primary Supervising Physician" means ~~the licensed~~ a physician with an active unencumbered license with the Medical Board who shall provide ongoing supervision, collaboration, ~~consultation~~ consultation, and evaluation of the medical acts performed by the nurse practitioner as defined in the collaborative practice agreement. Supervision shall be in compliance with the following:

(a) The primary supervising physician shall assure both Boards that the nurse practitioner is qualified to perform those medical acts described in the collaborative practice agreement.

(b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician.

(c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation.

(11) "Registration" means authorization ~~by the Medical Board and the Board of Nursing~~ for a registered nurse to use the title nurse practitioner in accordance with this Section.

(12) "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.

(13) "Volunteer Approval" means approval to practice consistent with this rule except without expectation of direct or indirect compensation or payment (monetary, in kind or otherwise) to the nurse practitioner.

History Note: *Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.20(4); 90-171.20(7); 90-171.23(b); 90-171.83;*
Recodified from 21 NCAC 36 .0227(a) Eff. August 1, 2004;
Amended Eff. September 1, 2012; December 1, 2009; December 1, 2006; August 1, 2004;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. June 1, 2020.

21 NCAC 32M .0102 SCOPE OF PRACTICE

The nurse practitioner's scope of practice is defined by academic educational preparation and national certification and maintained competence. A nurse practitioner shall be held accountable by both Boards for the continuous and comprehensive management of a broad range of personal health services for which the nurse practitioner is educationally prepared and for which competency has been maintained, with physician supervision and collaboration as described in Rule .0110 of this Section. These services include but are not restricted to:

(1) promotion and maintenance of health;
(2) prevention of illness and disability;
(3) diagnosing, treating and managing acute and chronic illnesses;
(4) guidance and counseling for both individuals and families;
(5) prescribing, ~~administering~~ administering, and dispensing therapeutic measures, tests, ~~procedures~~ procedures, and drugs;
(6) planning for situations beyond the nurse practitioner's expertise, and consulting with and referring to other health care providers as appropriate; and
(7) evaluating health outcomes.

History Note: *Authority G.S. 90-18(14); 90-171.20(7); 90-171.23(b)(14);*
Recodified from 21 NCAC 36 .0227(b) Eff. August 1, 2004;
Amended Eff. August 1, 2004;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. June 1, 2020.

21 NCAC 32M .0103 NURSE PRACTITIONER REGISTRATION

(a) The Board ~~of Nursing~~ shall register an applicant as a nurse practitioner who:

(1) has an ~~unrestricted~~ active unencumbered license to practice as a registered nurse in North Carolina or compact state and, when applicable, an ~~unrestricted~~ active unencumbered approval, ~~registration~~ registration, or license as a nurse practitioner in another state, territory, or possession of the United States;

(2) has successfully completed a nurse practitioner education program as outlined in Rule .0805 of this Section;

(3) is certified as a nurse practitioner by a national credentialing body consistent with 21 NCAC 36 .0101(8); and

(4) has supplied additional information necessary to evaluate the application as requested.

(b) ~~Beginning~~ Applicants who have graduated from a nurse practitioner program after January 1, 2005, ~~new graduates of a nurse practitioner program,~~ who are seeking first-time nurse practitioner registration ~~in North Carolina~~ shall:

(1) hold a Master's or higher degree in Nursing or related field with primary focus on Nursing;

(2) have successfully completed a graduate level nurse practitioner education program accredited by a national accrediting body; and

(3) provide documentation of certification by a national credentialing body.

History Note: *Authority G.S. 90-18(c)(13); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.83;*
Eff. August 1, 2004;
Amended Eff. September 1, 2012; November 1, 2008; December 1, 2006;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. June 1, 2020.

21 NCAC 32M .0104 PROCESS FOR APPROVAL TO PRACTICE

(a) Prior to the performance of any medical acts, a nurse practitioner shall:

(1) meet registration requirements as specified in 21 NCAC 36 .0803;

(2) submit an application for approval to practice;

(3) submit any additional information necessary to evaluate the application as requested; and

(4) have a collaborative practice agreement with a primary supervising ~~physician.~~ physician who is actively engaged in a practice that mirrors or exceeds that of the nurse practitioner's practice.

(b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than two years shall complete a nurse practitioner refresher course approved by the Board ~~of Nursing~~ in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification. A nurse practitioner refresher course participant shall be granted an approval to practice that is limited to clinical activities required by the refresher course.

(c) The nurse practitioner shall not practice until notification of approval to practice is ~~received from the Board of Nursing after both Boards have approved the application.~~ received.

(d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement, or experiences an interruption in her or his registered nurse licensure status, and the nurse practitioner shall ~~so~~ notify the Board ~~of Nursing~~ in writing. The ~~Boards~~ Board shall extend the nurse practitioner's approval to practice by 45 days in cases of emergency such as injury, sudden ~~illness~~ illness, or ~~death~~ death, or the sudden unavailability of the primary supervising physician.

(e) Applications for approval to practice in North Carolina shall be submitted to the Board ~~of Nursing~~ and then approved by both Boards as follows:

(1) the Board ~~of Nursing~~ shall verify compliance with Rule .0803 and Paragraph (a) of this Rule; and

(2) the Medical Board shall verify that the designated primary supervising physician holds a valid license to practice medicine in North Carolina and compliance with Paragraph (a) of this Rule.

(f) Applications for approval of changes in practice arrangements and addition or change of primary supervising physician for a nurse practitioner currently approved to practice in North Carolina shall be submitted by the applicant ~~as follows:~~

~~(1) addition or change of primary supervising physician shall be submitted~~ to the Board ~~of Nursing~~ and processed pursuant to protocols developed by both ~~Boards; and~~ Boards.

~~(2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.~~

(g) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:

(1) meet the nurse practitioner approval requirements as stipulated in Rule .0808(c) of this Section; and

(2) complete the appropriate application.

(h) Volunteer Approval to Practice. The ~~North Carolina~~ Board ~~of Nursing~~ shall grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.

(i) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0813 of this Section.

(j) A Nurse Practitioner approved under this Section shall keep proof of current licensure, ~~registration~~ registration, and approval available for inspection at each practice site upon request by agents of either Board.

History Note: *Authority G.S. 90-18(13), (14); 90-18.2; 90-171.20(7); 90-171.23(b);*
Recodified from 21 NCAC 36 .0227(c) Eff. August 1, 2004;
Amended Eff. November 1, 2013; January 1, 2013; December 1, 2009; November 1, 2008; January 1, 2007; August 1, 2004;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. June 1, 2020.

21 NCAC 32M .0105 EDUCATION AND CERTIFICATION REQUIREMENTS FOR REGISTRATION AND APPROVAL AS A NURSE PRACTITIONER

(a) A nurse practitioner applicant seeking ~~with~~ registration or first-time approval to practice after January 1, 2000, shall provide evidence of current certification ~~or recertification~~ as a nurse practitioner by a national credentialing body.

(b) A nurse practitioner applicant seeking registration or approval to practice who completed a nurse practitioner education program prior to December 31, 1999 shall provide evidence of successful completion of a course of education that contains a core curriculum including 400 contact hours of didactic education and 400 hours of preceptorship or supervised clinical experience. The core curriculum shall contain the following components:

(1) health assessment and diagnostic reasoning including:
  (A) historical data;
  (B) physical examination data;
  (C) organization of data base;
(2) pharmacology;
(3) pathophysiology;
(4) clinical management of common health problems and diseases such as the following shall be evident in the nurse practitioner's academic program:
  (A) respiratory system;
  (B) cardiovascular system;
  (C) gastrointestinal system;
  (D) genitourinary system;
  (E) integumentary system;
  (F) hematologic and immune systems;
  (G) endocrine system;
  (H) musculoskeletal system;
  (I) infectious diseases;
  (J) nervous system;
  (K) behavioral, mental health and substance abuse problems;
(5) clinical preventative services including health promotion and prevention of disease;
(6) client education related to Subparagraph (b)(4)–(5) of this Rule; and
(7) role development including legal, ethical, economical, health ~~policy~~ policy, and interdisciplinary collaboration issues.

(c) Nurse practitioner applicants exempt from components of the core curriculum requirements listed in Paragraph (b) of this Rule are:

(1) Any nurse practitioner approved to practice in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.
(2) A nurse practitioner certified by a national credentialing body prior to January 1, 1998, who also provides evidence of satisfying Subparagraph (b)(1)–(3) of this Rule shall be exempt from core curriculum requirements in Subparagraph (b)(4)–

(7) of this Rule. Evidence of satisfying Subparagraph (b)(1)–(3) of this Rule shall include:

(A) a narrative of course content; and

(B) contact hours.

History Note: *Authority G.S. 90-18(14); 90-171.42;*
Recodified from 21 NCAC 36.0227(d) Eff. August 1, 2004;
Amended Eff. December 1, 2009; December 1, 2006; August 1, 2004;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. June 1, 2020.

21 NCAC 32M .0106 ANNUAL RENEWAL OF APPROVAL TO PRACTICE

(a) Each registered nurse who is approved to practice as a nurse practitioner in this State shall annually renew each approval to practice with the Board ~~of Nursing~~ no later than the last day of the nurse practitioner's birth month by:

(1) Maintaining current North Carolina RN ~~licensure;~~ licensure or privilege to practice;

(2) Maintaining certification as a nurse practitioner by a national credentialing body identified in Rule .0801(8) of this Section;

(3) attesting to completion of continuing competence requirements, and submitting evidence of completion if requested by the Board, as specified in Rule .0807 of this Section;

~~(3)~~(4) Submitting the fee required in Rule .0813 of this Section; and

~~(4)~~(5) Completing the renewal application.

(b) If the nurse practitioner has not renewed by the last day of her or his birth month, the approval to practice as a nurse practitioner shall ~~lapse.~~ expire.

History Note: *Authority G.S. 90-8.1; 90-8.2; 90-18(c)(14); 90-171.23(b)(14); 90-171.83;*
Recodified from 21 NCAC 36.0227(e) Eff. August 1, 2004;
Amended Eff. March 1, 2017; December 1, 2009; November 1, 2008; August 1, 2004;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. June 1, 2020.

21 NCAC 32M .0107 CONTINUING EDUCATION (CE)

In order to maintain nurse practitioner approval to practice, the nurse practitioner shall maintain certification as a nurse practitioner by a national credentialing body identified in Rule .0801(8) of this Section and earn 50 contact hours of continuing education each year beginning with the first renewal after initial approval to practice has been granted. At least 20 hours of the required 50 hours must be in the advanced practice nursing population focus of the NP role ~~those hours~~ for which approval has been granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), other national credentialing bodies, or practice relevant courses in an institution of higher learning. Every nurse practitioner who prescribes controlled substances shall complete at least one hour of the total required continuing education (CE) hours annually consisting of CE designed specifically to address controlled substance prescribing practices, ~~signs of the abuse or misuse of controlled substances,~~ and controlled substance prescribing for chronic pain management. CE that includes recognizing signs of the abuse or misuse of controlled substances, or non-opioid treatment options shall qualify for the purposes of this rule. Documentation shall be maintained by the nurse practitioner for the previous five calendar years and made available upon request to either Board.

History Note: *Authority G.S. 90-5.1; 90-8.1; 90-8.2; 90-14(a)(15); 90-18(c)(14); 90-171.23(b)(14); 90-171.42; S.L. 2015-241, s 12F;*
Recodified from 21 NCAC 36 .0227(f) Eff. August 1, 2004;
Amended Eff. March 1, 2017; December 1, 2009; April 1, 2008; August 1, 2004;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. June 1, 2020.

21 NCAC 32M .0108 INACTIVE STATUS

(a) Any nurse practitioner who wishes to place her or his approval to practice on an inactive status shall notify the Board ~~of Nursing~~ in writing.

(b) A nurse practitioner with an inactive approval to practice status shall not practice as a nurse practitioner.

(c) A nurse practitioner with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice in Rules .0803(a)(1), .0804(a) and (b), .0807, and .0810 of this Section and receive notification from the Board ~~of Nursing~~ of approval prior to beginning practice after the application is ~~approved by both Boards.~~ approved.

(d) A nurse practitioner who has not practiced as a nurse practitioner in more than two years shall complete a nurse practitioner refresher course approved by the Board ~~of Nursing~~ in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and management of these conditions directly related to the nurse practitioner's area of academic education and national certification. A nurse practitioner refresher course participant shall be granted an approval to practice that is limited to clinical activities required by the refresher course.

History Note: *Authority G.S. 90-18(13); 90-18.2; 90-171.36; 90-171.83;*
Recodified from 21 NCAC 36 .0227(g) Eff. August 1, 2004;
Amended Eff. November 1, 2013; January 1, 2013; December 1, 2009; December 1, 2006; August 1, 2004;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. June 1, 2020

21 NCAC 32M .0109 PRESCRIBING AUTHORITY

(a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications.

(b) Prescribing and dispensing stipulations are as follows:

(1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the collaborative practice agreement as outlined in Rule .0810(2) of this Section.

(2) Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed, or ordered as established in the collaborative practice agreement, providing all of the following requirements are met:

(A) the nurse practitioner has an assigned DEA number that is entered on each prescription for a controlled substance;

(B) refills may be issued consistent with Controlled Substance laws and regulations; and

(C) the primary supervising physician(s) shall possess ~~the same~~ a schedule(s) of controlled substances ~~as~~ equal to or greater than the nurse practitioner's DEA registration.

(3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice agreement only as follows:

(A) upon a specific written or verbal order obtained from a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and

(B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a primary or back-up supervising physician and signed by the nurse practitioner and the physician.

(4) Each prescription shall be noted on the patient's chart and include the following information:

(A) medication and dosage;

(B) amount prescribed;

(C) directions for use;

(D) number of refills; and

(E) signature of nurse practitioner.

(5) Prescription Format:

(A) all prescriptions issued by the nurse practitioner shall contain the supervising physician(s) name, the name of the patient, and the nurse practitioner's name, telephone number, and approval number;

(B) the nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.

(6) A nurse practitioner shall not prescribe controlled substances, as defined by the State and Federal Controlled Substances Acts, for the following:

(A) nurse practitioner's own use;
(B) nurse practitioner's supervising physician;
(C) member of the nurse practitioner's immediate family, which shall mean a:
(i) spouse;
(ii) parent;
(iii) child;
(iv) sibling;
(v) parent-in-law;
(vi) son or daughter-in-law;
(vii) brother or sister-in-law;
(viii) step-parent;
(ix) step-child; or
(x) step-siblings;
(D) any other person living in the same residence as the licensee; or
(E) anyone with whom the nurse practitioner is having a physical, ~~sexual~~ sexual, and/or emotional intimate relationship.

(c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with 21 NCAC 46 .1703 that is hereby incorporated by reference including subsequent amendments.

History Note: *Authority G.S. 90-8.1; 90-8.2; 90-18.2; 90-18(c)(14); 90-171.23(b)(14);*
Recodified from 21 NCAC 36 .0227(h) Eff. August 1, 2004;
Amended Eff. March 1, 2017; December 1, 2012; April 1, 2011; November 1, 2008; August 1, 2004;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. June 1, 2020.

21 NCAC 32M .0110 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE AGREEMENT

The following are the quality assurance standards for a collaborative practice agreement:

(1) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to each other for consultation by direct communication or telecommunication.

(2) Collaborative Practice Agreement:

(a) shall be agreed ~~upon and~~ upon, ~~signed~~ signed, and dated by both the primary supervising physician and the nurse practitioner, and maintained in each practice site;

(b) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the collaborative practice ~~agreement~~ agreement, and available for inspection by members or agents of either Board;

(c) shall include the drugs, devices, medical treatments, ~~tests~~ tests, and procedures that may be prescribed, ~~ordered~~ ordered, and performed by the nurse practitioner consistent with Rule .0809 of this Section; and

(d) shall include a pre-determined plan for emergency services.

(3) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the collaborative practice agreement upon request by members or agents of either Board.

(4) Quality Improvement Process.

(a) The primary supervising physician and the nurse practitioner shall develop a process for the ongoing review of the care provided in each practice site including a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.

(b) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time-frame.

(c) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner at least every six months. Documentation for each meeting shall:

(i) identify clinical problems discussed, including progress toward improving outcomes as stated in Sub-item (4)(b) of this Rule, and recommendations, if any, for changes in treatment plan(s);

(ii) be signed and dated by those who attended; and

(iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

(5) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner and primary supervising physician(s):

(a) During the first six months of a collaborative practice agreement between a nurse practitioner and the primary supervising physician, there shall be monthly meetings for the first six months to discuss practice relevant clinical issues and quality improvement measures.

(b) Documentation of the meetings shall:

(i) identify clinical issues discussed and actions taken;

(ii) be signed and dated by those who attended; and

(iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

History Note: *Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.23(b)(14);*
Recodified from 21 NCAC 36 .0227(i) Eff. August 1, 2004;
Amended Eff. December 1, 2009; August 1, 2004;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. June 1, 2020.

21 NCAC 32M .0112 DISCIPLINARY ACTION

(a) After notice and hearing in accordance with provisions of G. S. 150B, Article 3A, disciplinary action may be taken by the appropriate Board if one or more of the following is found:

(1) violation of G.S. 90-18 and G.S. 90-18.2 or the joint rules adopted by each Board;
(2) immoral or dishonorable conduct pursuant to and consistent with G.S. 90-14(a)(1);
(3) any submissions to either Board pursuant to and consistent with G.S. 90-14(a)(3);
(4) the nurse practitioner is adjudicated mentally incompetent or the nurse practitioner's mental or physical condition renders the nurse practitioner unable to safely function as a nurse practitioner pursuant to and consistent with G.S. 90-14(a)(5) and G.S. 90-171.37(3);
(5) unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the prevailing standards for nurse practitioners in accordance and consistent with G.S. 90-14(a)(6) and G.S. 90-171.35(5);
(6) conviction in any court of a criminal offense in accordance and consistent with G.S. 90-14(a)(7) and G.S. 90-171.37 (2) and G.S. 90-171.48;
(7) payments for the nurse practitioner practice pursuant to and consistent with G.S. 90-14(a)(8);
(8) lack of professional competence as a nurse practitioner pursuant to and consistent with G.S. 90-14(a)(11);
(9) exploiting the client pursuant to and consistent with G.S. 90-14(a)(12) including the promotion of the sale of services, appliances, or drugs for the financial gain of the practitioner or of a third party;
(10) failure to respond to ~~inquires~~ inquiries which may be part of a joint protocol between the Board of Nursing and Medical Board for investigation and discipline pursuant to and consistent with G.S. 90-14(a)(14);
(11) the nurse practitioner has held himself or herself out or permitted another to represent the nurse practitioner as a licensed physician; or
(12) the nurse practitioner has engaged or attempted to engage in the performance of medical acts other than according to the collaborative practice agreement.

(b) The nurse practitioner is subject to G.S. 90-171.37; 90-171.48 and 21 NCAC 36 .0217 by virtue of the license to practice as a registered nurse.

(c) After an investigation is completed, the joint subcommittee of both boards may recommend one of the following:

(1) dismiss the case;
(2) issue a private letter of concern;
(3) enter into negotiation for a Consent Order; or
(4) a disciplinary hearing in accordance with G.S. 150B, Article 3A. If a hearing is recommended, the joint subcommittee shall also recommend whether the matter should be heard by the Board of Nursing or the Medical Board.

(d) Upon a finding of violation, each Board may utilize the range of disciplinary options as enumerated in G.S. 90-14(a) or G.S. 90-171.37.

History Note: Authority G.S. 90-18(c)(14); 90-171.37; 90-171.44; 90-171.47; 90-171.48;

Recodified from 21 NCAC 36 .0227(k) Eff. August 1, 2004;
Amended Eff. April 1, 2007; August 1, 2004;
Readopted Eff. January 1, ~~2019.~~ 2019;
Amended Eff. April 1, 2020