



BOARD MEETING MINUTES

July 19-21, 2023

**3127 Smoketree Court
Raleigh, North Carolina**

and Virtual

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held July 19-21, 2023.

The July 19-21, 2023, meeting of the North Carolina Medical Board was held virtual and at 3127 Smoketree Court, Raleigh, NC 27604. Michaux R. Kilpatrick, MD, President, called the meeting to order. Board members in attendance were: Christine M. Khandelwal, DO, President-Elect; John W. Rusher, MD, JD, Past President; Mr. William M. Brawley; W. Howard Hall, MD; N. Melinda Hill-Price, MD, JD.; Sharona Y. Johnson, PhD, FNP-BC; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C; Anuradha Rao-Patel, MD; Robert Rich, Jr., MD; David P. Sousa, JD, MBA. Members absent: Devdutta G. Sangvai, MD, MBA, Secretary/Treasurer

PRESIDENTIAL REMARKS

Dr. Kilpatrick 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. Reported conflicts were included within individual committee reports.

ANNOUNCEMENTS and UPDATES

Dr. Kilpatrick recognized new staff as they were introduced by their perspective manager. She also recognized staff with milestone anniversaries and promotions.

PRESENTATION(S)

Dr. Kilpatrick introduced Meg Beal, MMS, PA-C, President of the NC Association of Physician Assistants (NCAPA), who gave a presentation on the NCAPA.

Dr. Kilpatrick introduced Martha Bringburst, DO, President of the NC Osteopathic Medical Association (NCOMA) who gave a presentation on the NCOMA.

Dr. Kilpatrick introduced Brian Shackleford, MD, President of the Old North State Medical Society (ONSMS), who gave a presentation on ONSMS.

Dr. Kilpatrick introduced Chip Baggett, JD, CEO of the NC Medical Society (NCMS) who gave a presentation on the NCMS.

NORTH CAROLINA PHYSICIAN HEALTH PROGRAM REPORTS (NCPHP)

Mr. Malcolm gave the NCPHP Board of Directors 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.

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Dr. Jordan 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.

NCMB ATTORNEY'S REPORT

Mr. Brian L. Blankenship, Chief Legal Officer, gave the Attorney's Report on Friday, July 21st, 2023.

Mr. Blankenship updated the Board on the schedule of upcoming hearings, hearing assignments and rule activity of the Board.

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, and/or 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.

Within the closed session:

Mr. Blankenship provided information and legal advice within the attorney-client privilege and regarding an outside litigation matter. Mr. Marcus Jimison, Senior Board Attorney, provided information and legal advice within the attorney-client privilege and regarding an outside litigation matter. Mr. Patrick Balestrieri, Senior Board Attorney, provided information and legal advice within the attorney-client privilege and regarding two outside litigation matters. Mr. Blankenship provided information and legal advice within the attorney-client privilege regarding attorney work product occurring since the last Attorney's Report.

A motion was passed to return to open session.

NCMB COMMITTEE REPORTS

Executive Committee Report

Members present via video/teleconference were: Michaux R. Kilpatrick, MD, PhD Chairperson; Christine M. Khandelwal, DO, MHPE; Anu Rao-Patel, MD; and John W. Rusher, MD, JD
Members absent: Devdutta G. Sangvai, MD, MBA

Financial Update

a. Year-To-Date Financials

The Committee reviewed the following financial reports through May 31, 2023: Balance Sheet, Profit & Loss versus Budget, and the Profit & Loss Comparison.

Committee Recommendation: Accept the financial information as reported.

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

b. Investment Account Update

The Committee reviewed the investment statements for May and June 2023.

Committee Recommendation: Accept the investment statements as reported.

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

Old Business

a. 2023 NCMB Retreat (August 18 – 20)

The Committee reviewed final details regarding the upcoming Board retreat.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

New Business:

a. NCMB Appointments/Review Panel Update

There are three seats to be appointed by the Governor this year via the NCMB Review Panel:

- Dr. Rao-Patel (eligible for reappointment; seeking reappointment)
- Dr. Kilpatrick (not eligible for reappointment)
- Dr. Rusher (not eligible for reappointment)

The Review Panel will meet on August 11 – 13 to conduct interviews, discuss the candidates, and decide whom to nominate to the Governor.

There is one seat to be appointed by the Speaker of the House (outside the Review Panel process):

- Mr. Brawley (eligible for reappointment; seeking reappointment)

The Committee received an update on the candidates who have completed an application for consideration of a nomination for a seat on the NC Medical Board.

Committee Recommendation: Accept as reported.

Board Action: Accept Committee recommendation. Accept as reported.

b. Legislative Update

The Committee reviewed the Legislative update. There were no new bills for discussion.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept the Legislative update as information.

c. Legal Department Discussion – Notifications to applicants and licensees

The Executive Committee received a report on steps the staff take to notify license applicants and respondent licensees in enforcement cases about their right to legal counsel. Staff will continue working on other ideas to notify applicants and licensees of their right to legal counsel.

Committee Recommendation: Accept as Information.

Board Action: Accept Committee recommendation. Accept as information.

d. Controlled Substances CME Rule Change (Appendix A)

The Executive Committee received information on options regarding accepting training on Medication Assisted Treatment as required by the Drug Enforcement Agency for NCMB's required Controlled Substances Continuing Medical Education.

Committee Recommendation: Approved amending Board rules 21 NCAC 32R .0101 (physician CME); 21 NCAC 32S .0216 (physician assistant CME); 21 NCAC 32M .0107 (nurse practitioner CME); creating an FAQ and including a message on the Board's annual renewal form.

Board Action: Accept Committee recommendation. The Board approved amending Board rules 21 NCAC 32R .0101 (physician CME); 21 NCAC 32S .0216 (physician assistant CME); 21 NCAC 32M .0107 (nurse practitioner CME); creating an FAQ and including a message on the Board's annual renewal form.

e. Meeting with Other Members of the Board to Solicit Nominations for Officers and At-Large Executive Committee Members.

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As provided in the Bylaws, the Executive Committee met with other members of the Board to solicit recommendations for the open positions: President-Elect, Secretary/Treasurer and two Members-at-Large.

Committee Recommendation: Accept as Information.

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

f. Meeting to Discuss Nominees

A motion passed to go into closed session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee.

As per Article IV, Section 2 of the NCMB Bylaws, the Executive Committee retired to discuss a slate of candidates for President-Elect, Secretary/Treasurer and two At-Large Executive Committee members.

A motion passed to return to open session.

g. Announcement of Nominees

The Executive Committee nominates the following members for the following positions:

President-Elect: Devdutta G. Sangvai, MD, MBA

Secretary/Treasurer: Anu Rao-Patel, MD

Member at Large: William M. Brawley

Member at Large: W. Howard Hall, MD

Committee Recommendation: Approve the slate of nominees as presented.

Board Action: Accept Committee recommendation. Approve the slate of nominees as presented.

Policy Committee Report

Members present were: John W. Rusher, MD, JD; Chairperson; William M. Brawley; W. Howard Hall, MD; Sharona Y. Johnson, PhD, FNP-BC; Robert L. Rich, Jr., MD; and David P. Sousa, JD, MBA.

Old Business:

a. 5.1.4. Telemedicine

The Committee completed an additional review of the revised position statement, including the previously requested changes made to the “Licensure” section. Based on the Committee’s discussion, the Board directed staff to make additional changes to the following sections:

- a. Licensure;
- b. Prescribing; and
- c. Continuity of Care and Referral for Emergent Situations.

All other sections of the position statement were accepted as final. The Committee will review the additional changes made to the position statement and finalize the revised position statement at the September 2023 meeting.

Committee recommendation: Staff to expedite additional changes to the “Licensure,” “Prescribing,” and “Continuity of Care and Referral for Emergent Situations” sections of the position statement and send those changes to the Committee members for review and comment. Revised draft and any comments received to be included in the materials provided for the September 2023 meeting.

Board Action: Accept Committee recommendation. Staff to expedite additional changes to the “Licensure,” “Prescribing,” and “Continuity of Care and Referral for Emergent Situations” sections of the position statement and send those changes to the Committee members for review and comment. Revised draft and any comments received to be included in the materials provided for the September 2023 meeting.

b. 4.1.3: Policy for the Use of Opioids for the Treatment of Pain

The Committee was provided with an overview of the revisions made to the current position statement, which were based, in part, on the 2022 Center for Disease Control and Prevention (“CDC”) Clinical Practice Guideline for Prescribing Opioids for Pain. The Committee was tasked with thoroughly reviewing the revisions and presenting any comments or suggested revisions at the September 2023 meeting.

Committee recommendation: Staff to provide the revised draft to the Committee members for review and comment. Revised draft and any comments received to be included in the materials provided for the September 2023 meeting.

Board Action: Accept Committee recommendation. Staff to provide the revised draft to the Committee members for review and comment. Revised draft and any comments received to be included in the materials provided for the September 2023 meeting.

Licensing Committee Report

Members present were: W. Howard Hall, MD, Melinda Hill-Price, MD, JD; Miguel Pineiro, PA-C, MHPE; and Robert L. Rich, Jr.

Members absent: Devdutta G. Sangvai, MD, MBA, Chairperson

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 six 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 & Allied Health Committee Report

Members present were: Sharona Y. Johnson, PhD, FNP-BC, Chairperson; William M. Brawley; Miguel Pineiro, PA-C, MHPE. Members absent: Devdutta G. Sangvai, MD, MBA

Old Business:

- a. 21 NCAC 32B .1002 – Physician Supervision of Nurse Midwives– Marcus Jimison, Sr.
Board Attorney

Committee Recommendation: Accept as information.

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Board Action: Accepted Committee recommendation. Accepted as information.

New Business:

- a. Physician Assistant Compliance Audit Program – Patrick Berckmiller, Chief Investigative Officer

Committee Recommendation: Discontinue Physician Assistant Compliance Audits.

Board Action: Accept Committee recommendation. Discontinue Physician Compliance Audits.

- b. Implementation of SL2021-110, Allowing Immunizing Pharmacists to Administer Certain Medications – M. Jimison, Sr. Board Attorney

Committee Recommendation: Accept protocols as written.

Board Action: Accepted Committee recommendation. Accept protocols as written.

Disciplinary (Malpractice) Committee Report

Members present were: Christine M. Khandelwal, DO (First Chair); Anuradha Rao-Patel, MD (Second Chair); W. Howard Hall, MD; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD; John W. Rusher, MD, JD

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 48 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: Christine M. Khandelwal, DO (First Chair); Anuradha Rao-Patel, MD (Second Chair); W. Howard Hall, MD; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD; John W. Rusher, MD, JD.

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.

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The Disciplinary (Investigative) Committee reviewed 55 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.

Disciplinary (Complaints) Committee Report

Members present were: Christine M. Khandelwal, DO (First Chair); Anuradha Rao-Patel, MD (Second Chair); W. Howard Hall, MD; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD; John W. Rusher, MD, JD

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 36 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 (Compliance) Committee Report

Members present were: Christine M. Khandelwal, DO (First Chair); Anuradha Rao-Patel, MD (Second Chair); W. Howard Hall, MD; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD; John W. Rusher, MD, JD

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 (Compliance) Committee reviewed nine 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.

Disciplinary (DHHS) Committee Report

Members present were: Christine M. Khandelwal, DO (First Chair); Anuradha Rao-Patel, MD (Second Chair); W. Howard Hall, MD; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD; John W. Rusher, MD, JD

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 (DHHS) Committee reviewed 3 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.

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.

Eleven 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: W. Howard, MD; Chairperson; . Melinda Hill-Price, MD, JD; Miguel A. Pineiro, PA-C, MHPE. Members absent: Devdutta G. Sangvai, MD, MBA

Old Business:

- a. Update on presentations
 - i. Professional and public presentations

The Communications Director gave a brief overview of public and professional outreach activity. The Regulatory Immersion Series (RIMS) program continues to dominate most of NCMB's professional outreach efforts. A modified version of the RIMS curriculum was recently presented to a large NC law firm and was well-received. RIMS presentations to medical and PA schools are fully staffed with lead faculty through the end of 2023. On the public outreach front, NCMB presented at a couple of community events this spring and is looking forward to

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presenting at a senior men's group and a senior center in the next few months.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

- b. Wellness and Burnout Updates
 - i. Review of April Consortium Meeting

The Chief Medical Officer gave a summary of the most recent meeting of the NC Clinician and Physician Retention and Well-Being Consortium, hosted by the North Carolina Medical Society on June 15. Presenters included Dr. Stephanie Simmons, CMO for the Lorna Breen foundation, Abraham Segres representing the Virginia Hospital and Healthcare Association, Dr. Bryant Murphy, UNC Peer Coaching Program lead, Tatyana Kelly, VP of the North Carolina Healthcare Association, NCHA. Each presented on their institution's evidence informed program initiatives targeted at mitigating licensee and healthcare team burnout using system-based strategies. The Consortium's focus is currently engaging the Chief Medical Officers represented on the Physician Advisory Group for the NCHA, to explore best language for credentialing applications addressing mental health inquiries.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

New Business:

- a. Licensee survey result presentation

The Committee received a presentation of summary results from the recently completed licensee survey from Clare Studwell CEO of Flow Strategy, which conducted the survey on NCMB's behalf. Some highlights of the results include: current use of telemedicine is nearly four times the rate documented in 2018, when the last survey was conducted, and less than the 77 percent use rate documented during the COVID-19 pandemic; Burnout is licensees' most pressing professional challenge, followed by the administrative burden of obtaining prior authorizations and dealing with electronic health records; Licensees point to inadequate staffing as their most difficult employment challenge, followed by difficulty maintaining appropriate work/life balance and inadequate compensation. Of note, the survey found that 62 percent of licensees surveyed indicated that they had been involved in or know someone who was involved in a violent incident with a patient within the past year. Ms. Studwell noted that findings differ by license type and highlighted some differences between MD/DO and PA responses. Committee and Board Members are encouraged to review a summary of survey findings, which can be found on the Board Book in Email Additions.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

b. Informed consent

The Communications Director outlined general plans to create patient resources regarding informed consent, with a goal of helping patients become more engaged and informed consumers of health care. Due to a lack of time, Committee Members were asked to consider key questions in advance of the September Board Meeting, including when it is especially important for patients to give true informed consent and whether NCMB should develop resources for medical professionals as well as patients.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

c. MATE CME Training

Agenda item tabled until the September 2023 Board Meeting due to lack of time.

d. Misc. Other Outreach Activities

- i. "All In" promotion
- ii. Latest podcast episode preview

Agenda item tabled until the September 2023 Board Meeting due to lack of time.

Diversity and Inclusion Workgroup

Members present were: Melinda Hill-Price, MD, JD, Chair; Joshua Malcolm, JD, and Michaux R. Kilpatrick, MD, PhD.

Old Business:

- a. Debrief on May Annual Diversity Training for Board members and staff.

The Workgroup discussed the annual diversity training lead by Dr. Sneha Thamotharan at the May Board Meeting, which was well received.

Workgroup recommendation: Accept as information.

Board Action: Accept Workgroup recommendation. Accept as information.

- b. HNC 2030 Initiative on Drug Overdose Deaths – Use of NC Controlled Substances Reporting System.

The Workgroup received an update on efforts to educate licensees on the use of the NC Controlled Substances Reporting System (NCCSRS), which contributes to the HNC 2030 initiative to reduce drug overdose deaths. Staff have worked with DHHS to obtain NCCSRS data and have begun sending letters to non-registered prescribers. Information has also been published in the Forum. An attestation on the annual renewal, as recommended by the Workgroup, has been finalized and submitted to ThoughtSpan. The attestation includes information about the mandatory registration and will require licensees to attest that they have registered with NCCSRS if they prescribe controlled substances.

Workgroup recommendation: Accept as information.

Board Action: Accept Workgroup recommendation. Accept as information.

New Business:

- a. Quality Improvement Project

Dr. Walker-McGill has been hired as a consultant to conduct a comparative analysis between the Board's diversity and inclusion efforts with those recommended by the Federation of State Medical Boards (FSMB) in its final report, which was published in May. Dr. Walker-McGill, along with NCMB summer intern Amelia Tilson, provided the Workgroup with an interim report, which included an overview of the project. The project to date has included a review of board member representation and the Board's work in attracting candidates through the Review Panel and changes in board meeting procedures. In addition, the project highlights the Board's use of its website and social media, with a preliminary recommendation of adopting an inclusion statement and increasing the visibility of the Workgroup's work on diversity, equity, and inclusion.

Workgroup recommendation: Accept as information.

Board Action: Accept Workgroup recommendation. Accept as information.

ADJOURNMENT

The Medical Board adjourned at 12:00 p.m. on Friday, July 21, 2023

The next meeting of the Medical Board is scheduled for September 20-21, 2023.



Devdutta G. Sangvai, MD, MBA, Secretary/Treasure

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Board Action Sheet
Executive Committee
July 2023

RE: Medication Access and Expansion Training to Satisfy Board's Targeted CME Requirement for Controlled Substance Prescribing.

Recently, the Board staff were asked to determine whether the mandated training for the Medication Access and Expansion Training ("MATE") Act could be used to satisfy the Board's targeted CME on controlled substances prescribing. Upon review, it was determined that it is possible.

The Board voted to proceed with two actions to allow licensees who have taken training meeting the requirements of the MATE Act during the current or future CME cycles to also satisfy the Board's required controlled substances CME. The Board voted to amend the Board rules related to the CME requirement, create some communications to licensees related to the changes, and also to add a message to the relevant place in the renewal questionnaire related to CS CME.

Committee Recommendation: Approved amending Board rules 21 NCAC 32R .0101 (physician CME); 21 NCAC 32S .0216 (physician assistant CME); 21 NCAC 32M .0107 (nurse practitioner CME); creating an FAQ and including a message on the Board's annual renewal form.

Board Action: Accept Committee recommendation. The Board approved amending Board rules 21 NCAC 32R .0101 (physician CME); 21 NCAC 32S .0216 (physician assistant CME); 21 NCAC 32M .0107 (nurse practitioner CME); creating an FAQ and including a message on the Board's annual renewal form.