BOARD MEETING MINUTES

September 20-22, 2023

3127 Smoketree Court
Raleigh, North Carolina

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held September 20-22, 2023.

The September 20-22, 2023, meeting of the North Carolina Medical Board was held 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; Devdutta G. Sangvai, MD, MBA, Secretary/Treasurer; 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.

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.

PRESENTATION(S)

Dr. Karen Burke-Haynes, Mr. Patrick Balestrieri and Ms. Carren Mackiewicz provided Board member re-entry to Practice training.

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.

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, September 22nd, 2023.

Mr. Blankenship gave a presentation to the Board regarding the August 16, 2023, Public Citizen Report on state medical boards' disciplinary actions.

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

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.

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; Devdutta G. Sangvai, MD, MBA Anu Rao-Patel, MD; and John W. Rusher, MD, JD

Financial Update

a. Year-To-Date Financials

   The Committee reviewed the following financial reports through July 31, 2023: 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 Update

   The Committee reviewed the investment statements for July and August 2023.

   Committee Recommendation: Accept the investment statements as reported.

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

c. Proposed FY2024 Budget

   The Committee reviewed the proposed budget for fiscal year 2024. The new fiscal year begins November 1, 2023.

   Committee Recommendation: Approve the proposed budget for fiscal year 2024.

Board Action: Accept Committee recommendation. Approve the proposed budget for the fiscal year 2024.

Old Business

a. Data Implementation Plan Update

At the March 2022 meeting, the Board approved a Data Strategy Plan proposed by Blaze Advisors, now known as AleraHealth. At the May 2022 meeting, the Board approved a 12-month Data Strategy Implementation Plan submitted by Blaze Advisors. Brian Blankenship, Chief Legal Officer, is managing this project with the assistance of Siobhan Simpson, Data Analyst.

Jose Castillo with AleraHealth provided an update to committee members on where his project team is on the Data Strategy Implementation Plan. The implementation project is on schedule.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. CS CME Rule Change Update

At its July 2023 meeting, the Board approved amending the Board Rules 21 NCAC 32R .0101 (Physician CME); 21 NCAC 32S .0216 (Physician Assistant CME); 21 NCAC 32M .0107 (Nurse Practitioner CME). (Appendix A)

Committee Recommendation: Approve the proposed rule change as written.

Board Action: Accept Committee recommendation. Approve the proposed rule change as written.

c. Board retreat debrief

The Executive Committee reviewed the minutes and discussed key takeaways.

Committee Recommendation: Accept as information.

Board Action: Accept Committee Recommendation. Accept as information.

New Business:

a. NCMB Appointments

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 met on August 11-13 to conduct interviews, discuss the candidates, and decide whom to nominate to the Governor.

The Office of the Governor, Boards and Commissions informed Board staff on September 19, 2023, that Governor Cooper has made the decision to reappoint Dr. Rao-Patel and appoint Candace Bradley, DO and Mark Newell, MD to fill the seats that Dr. Kilpatrick and Rusher will vacate October 31, 2023.

In addition, Speaker of the House Tim Moore recommended, and the General Assembly appointed Mr. William Brawley to serve an additional term on the Medical Board from July 1, 2023, until October 31, 2026.

Committee Recommendation: Accept as Information.

Board Action: Accept Committee recommendation. Accept as information.

b. Legislative Update

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

Committee Recommendation: Accept as Information.

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

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 (Appendix B)

The Committee completed a final review of the revised position statement, including additional comments from Committee members. The proposed changes were viewed favorably. The Committee instructed staff to incorporate one additional change and agreed that once the change was incorporated, the position statement would be in final form.

Due to continued enhancements and increased utilization of telemedicine, the Committee recommended that the Board revisit this position statement in or around September 2024, to ensure the position statement includes the most up-to-date guidance.

Committee recommendation: Adopt and publish the revised position statement. Committee to revisit the position statement in or around September 2024.

Board Action: Accept Committee recommendation. Adopt and publish the revised position statement. Committee to revisit the position statement in or around September 2024.

b. 4.1.3: Policy for the Use of Opioids for the Treatment of Pain (Appendix C)

The Committee completed an additional review of the revised position statement, including additional recommended revisions by Committee members. All suggested revisions were viewed favorably, and the revised position statement was accepted as final.

The Committee was instructed to revisit the position statement after the Federation of State Medical Boards ("FSMB") finalizes its draft *Strategies for Prescribing Opioids for the Management of Pain* policy at the May 2024 FSMB meeting to consider if additional revisions should be made to the position statement.

Committee recommendation: Adopt and publish revised position statement. Committee to revisit the position statement after FSMB finalizes its policy.

Board Action: Accept Committee recommendation. Adopt and publish revised position statement. Committee to revisit the position statement after FSMB finalizes its policy.

New Business:

a. 9.1.2: Professional Behavior Within the Healthcare Team

The Committee was provided with an overview of recent discussions and concerns related to the increase in workplace violence in the healthcare setting, both within the healthcare team and towards licensees by patients, associates of patients, and/or the public. The Committee discussed what potential next steps could be taken, including revising the current position statement, creating a new position statement to provide guidance on how to deal with violence and/or disruptive behavior by patients and the public, and making a referral to the Outreach Committee. The Committee agreed to table further action until the new Committee is in place and to revisit this matter at the November 2023 meeting.

Committee recommendation: Table discussion until the November 2023 meeting.

Board Action: Accept Committee recommendation. Table discussion until the November 2023 meeting.

Licensing Committee Report

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

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 eight 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.

Three 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; Devdutta G. Sangvai, MD, MBA; William M. Brawley; Miguel Pineiro, PA-C, MHPE; David P. Sousa, JD, MBA

New Business:

a. NC Office of EMS Request to Update Approved Skills and Medications for EMS Personnel – James E. "Tripp" Winslow, MD, Medical Director NC Office of Emergency Medical Services

   Committee Recommendation: Approve request for updated approved skills and medications for EMS personnel.

   Board Action: Accepted Committee Recommendation. Approved request for updated approved skills and medications for EMS personnel.

b. Advanced Practice Providers – Adding and Removing Supervising Physicians – Malinda M. Sink, APP Supervisory Coordinator, NCMB

   Committee Recommendations:
   1. Update ThoughtSpan to include supervisory relationships on both the physician and PA Licensure Gateway pages.
   2. Update the current Intent to Practice letter. The updated language to include requirements for PAs to remove PSPs when the supervisory relationship concludes.

3. Update the NCMB website with easier-to-find information on physician/PA supervisory relationships.
4. Have the NCMB Outreach committee prepare materials to effectively distribute information about the various processes for adding and removing physician and physician assistant pairings.

Board Action: Accepted Committee Recommendations. Approved the staff to complete items 1, 2, 3, 4 and added item 5.

1. Update ThoughtSpan to include supervisory relationships on both the physician and PA Licensure Gateway pages.
2. Update the current Intent to Practice letter. The updated language to include requirements for PAs to remove PSPs when the supervisory relationship concludes.
3. Update the NCMB website with easier-to-find information on physician/PA supervisory relationships.
4. Have the NCMB Outreach committee prepare materials to effectively distribute information about the various processes for adding and removing physician and physician assistant pairings.
5. Direct staff to investigate/evaluate the current process to incorporate a physician acknowledgment of supervisory relationship.

c. Midwifery JSC Re-Appointment – Marcus Jimison, Sr. Board Attorney

Committee Recommendation: Accept the re-appointment of Dr. Carolyn Harraway-Smith for a second three-year term.

Board Action: Accepted Committee recommendation. Accept the re-appointment of Dr. Carolyn Harraway-Smith for a second three-year term.

d. Midwifery JSC Appointment – Marcus Jimison, Sr. Board Attorney

Committee Recommendation: Accept the appointment of Dr. Alan Rosenbaum for a three-year term.
Board Action: Accepted Committee recommendation. Accept the appointment of Dr. Alan Rosenbaum for a three-year term.

e. Perfusionist Advisory Committee – Interviews for open PAC seat

Committee Recommendation: Appoint Melinda “Mindy” Couper to the PAC, for a three-year term.

Board Action: Accepted Committee recommendation. Appoint Melinda “Mindy” Couper to the PAC, for a three-year term.

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.

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 (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 54 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.

The Disciplinary (Investigative) Committee reviewed 54 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 45 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 four 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.

Twelve 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; Devdutta G. Sangvai, MD, MBA

Old Business:

a. Update on presentations
    i. Professional and public presentations

    The Communications Director gave an overview of recent professional outreach activity. Outreach to PA programs regarding licensure and practice in North Carolina, and to medical and PA students via the Regulatory Immersion Series (mock disciplinary committee) program continue to account for the bulk of NCMB's presentations. NCMB is presenting at two upcoming stakeholder group meetings, including the Old North State Medical Society Annual Meeting, and is planning outreach to an internal medicine residency program. The Committee Chair opined that NCMB should make it a priority to participate in additional stakeholder meetings, whether by presenting as part of the programmed speakers or by staffing a booth. On the public outreach front, NCMB is continuing to participate in community health fairs, which offer the opportunity to engage with sometimes large numbers of patients/members of the public. NCMB is continuing to seek opportunities to present to diverse audiences and is starting to reach out to organizations that serve the Hispanic/LatinX community. NCMB's current lack of presenters who are fluent in Spanish is a challenge that must be addressed.

    Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

b. Wellness and Burnout Updates
    i. Review of August 20 - NCCPRW Steering Committee meeting

The Chief Medical Officer gave an update on the Aug. 20 meeting of the Steering Committee of the NC Clinician and Physician Retention and Well-being Consortium (NCCPRW). The primary purpose of the meeting was to review priorities for the Sept. 28, 2023, Consortium meeting agenda. Two key agenda items will be updated on barriers to healthcare systems' endorsement of credentialing changes. UNC progress in this area is noted and may serve as a model moving forward. The second item will be presentation of the North Carolina Medical Board's licensee survey data on clinician burnout/occupational stress and wellness. The NCMB staff focus going forward will be to encourage more detailed feedback from Consortium stakeholders on how they have or will use the NCMB survey data. Also, staff will continue to monitor the discussions on future engagement with the Lorna Breen Foundation as a partner agency in advancing the mission of systems changes in support of North Carolina licensee wellness and joy in practice. Possible funding opportunities were offered by Public Member David Sousa, JD.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

New Business:

a. Public survey results

Clare Studwell of Flow Strategy, with whom NCMB has worked on licensee and public surveys for about five years, presented highlights from the most recent public survey, which was concluded in August. The survey was completed by 600 individuals (none of whom are NCMB licensees) in 82 North Carolina counties. General findings include that just 16 percent of respondents indicated they are somewhat or very familiar with NCMB. While still modest, this does represent an increase from 2018, the last time NCMB surveyed the public. Respondents who identified their ethnicity as "Hispanic" are more likely than other respondents to indicate they have never heard of the medical board. Other key findings include that healthcare providers (licensees) are patients' most trusted source of information about medical care, followed by websites and family/friends. Respondents indicated that they are most interested in receiving tips from NCMB on effectively communicating with their medical providers; Learning more about medical records and patients' rights under HIPAA and optimal use of telemedicine were also topics of high interest. The survey also gathered insights into patients' adverse experiences with licensees, experiences with chronic pain and opioid prescribing and use of telemedicine during and since the coronavirus pandemic. Board Members and Staff will continue to review the survey findings and discuss ways the information can inform resource development and other Board efforts.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

b. Informed consent

The Communications Director received feedback from Committee Members regarding an upcoming project to produce consumer/patient resources related to informed consent and encouraging proper engagement with licensees prior to consenting to treatment. Prior to the meeting, NCMB Public Member David Sousa, JD, offered to connect Communications with a contact at his former employer, Curi, which has developed resources on the topic of informed consent. Mr. Sousa also provided an early version of an upcoming legal textbook chapter (of which he was a contributing editor) that offers in depth guidance on informed consent. Committee members recommended that any materials NCMB develops for patients include basic information on financial informed consent, such as advising patients to inquire about the availability of generic medications that may be more affordable and how to determine whether a recommended test or treatment is covered by their insurance and at what level. It was noted that health literacy varies widely among North Carolina residents, which may affect the efficacy of the campaign. The Communications Department will continue working on the project and advise the Committee of progress.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

c. Misc. Other Outreach Activities

i. Latest podcast episode – New MATE training requirement and NCMB MATE CME

ii. Update on the resource page for new licensees

Agenda item was omitted due to the lack of time.

Diversity and Inclusion Workgroup

Members present were: Melinda Hill-Price, MD, JD, Chair; Michaux R. Kilpatrick, MD, PhD.; Anu Rao-Patel, MD. Member absent: Joshua Malcolm, JD,

New Business:

a. Dr. Cheryl Walker-McGill has completed a quality improvement project comparing the NCMB's practices and processes with best practices identified in the Federation of State Medical Board's Diversity, Equity and Inclusion final report and Playbook. She presented her final report offering recommendations after evaluating the efforts and goals of the Workgroup to date. She interviewed Board members, staff, consultants, and stakeholders, and collected

information on the Board composition and Board member selection process, licensing, complaints, investigations, contested case hearings, discipline, and the Board's website.

While the Board is a leader among state medical boards in many areas, there are opportunities for improvement. She identifies several recommendations for the Board to consider, including considering developing a new strategic framework that adopts a more proactive approach and updating the name of the workgroup to focus on health equity and health outcomes.

Committee Recommendation: Continue the Workgroup under the name "Health Equity Workgroup," charging it with using the Quality Improvement Report as a framework and evaluating each recommendation.

Board Recommendation: Continue the Workgroup under the name "Health Equity Workgroup," charging it with using the Quality Improvement Report as a framework and evaluating each recommendation

ADJOURNMENT

The Medical Board adjourned at 11:48 a.m. on Friday, September 22, 2023

The next meeting of the Medical Board is scheduled for November 15-17, 2023.

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

21 NCAC 32R .0101 is proposed to be amended 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 a physician uses to provide services for his or her patients and practice, the public, or profession.

(b) 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 3 years. Every physician who prescribes controlled substances, except those physicians holding a residency training license, shall complete at least 3 hours of CME from the required 60 hours of Category 1 CME designed specifically to address controlled substance prescribing practices. The controlled substance prescribing CME shall include instruction on controlled substance prescribing 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. Physicians who complete the federally required training under the Medication Access and Training Expansion Act (MATE) shall be deemed in compliance with the controlled substance prescribing requirements of this Rule for the three-year CME period in which the MATE training was completed.

(c) The three-year period described in Paragraph (b) of this Rule begins on the physician's birthday following the 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. April 1, 2024; April 1, 2020; September 1, 2016.

21 NCAC 32S .0216 is proposed to be amended as follows:

21 NCAC 32S .0216 CONTINUING MEDICAL EDUCATION

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

(b) A physician assistant who prescribes controlled substances shall complete at least two 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 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 he or she is currently certified by the NCCPA. Physician assistants who attest he or she possesses 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 assistant shall complete the required two hours of controlled substance CME unless the CME is a component part of their certification activity. Physician assistants who complete the federally required training under the Medication Access and Training Expansion Act (MATE) shall be deemed in compliance with the controlled substance prescribing requirements of this Rule for the two-year CME period in which the MATE training was completed.

(d) Courses pertaining to interprofessional continuing education and courses pertaining to cultural competency or implicit bias training shall qualify for any CME hours required under this Rule so long as such courses are approved by the NCCPA.

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. April 1, 2024; January 1, 2022; April 1, 2020; September 1, 2016.

21 NCAC 32M .0107 is proposed to be amended as follows:

21 NCAC 32M .0107 CONTINUING EDUCATION (CE)

(a) In order to maintain nurse practitioner approval to practice, the nurse practitioner shall earn 50 contact hours of continuing education activity every two years, beginning with the first renewal after initial approval to practice has been granted. A minimum of 20 hours of the required 50 hours must be in the advanced practice nursing population focus of the NP role. The 20 hours must have approval granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), or by a national accredited provider of nursing continuing professional development, or nurse practice-relevant courses in an institution of higher learning. A nurse practitioner who possesses a current national certification by a national credentialing body shall be deemed in compliance with the requirement of Paragraph (a) of this Rule.

(b) Prior to prescribing controlled substances as the same are defined in 21 NCAC 32M .0109(b)(2), nurse practitioners shall have completed a minimum of one CE hour within the preceding 12 months on 1 or more of the following topics:

(1) Controlled substances prescription practices;

(2) Prescribing controlled substances for chronic pain management;

(3) Recognizing signs of controlled substance abuse or misuse; or

(4) Non-opioid treatment options as an alternative to controlled substances.

(c) Nurse practitioners who complete the federally required training under the Medication Access and Training Expansion Act (MATE) shall be deemed in compliance with the controlled substance prescribing requirements of this Rule for the two-year CE period in which the MATE training was completed.

~~(c)~~ (d) Documentation of all CE completed within the previous five years shall be maintained by the nurse practitioner and made available upon request to either Board.

History Note: *Authority G.S. 90-5.1(a)(3); 90-8.2; 90-18(c)(14); S.L. 2015-241, s. 12F;*
Eff. January 1, 1996;
Amended Eff. August 1, 2004; May 1, 1999;
Recodified from Rule .0106 Eff. August 1, 2004;
Amended Eff. December 1, 2009; April 1, 2008;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;
Amended Eff. April 1, 2024; June 1, 2023; June 1, 2021; March 1, 2017.

5.1.4: Telemedicine

"Telemedicine" is the practice of medicine using electronic communication, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. The term telemedicine incorporates the practices of telehealth. It is one component of the delivery of healthcare.

The Board recognizes that technological advances have made it possible for licensees to provide medical care to patients who are separated by some geographical distance. As a result, telemedicine can be a useful practice model that, if employed appropriately, can provide important benefits to patients, including: increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and the potential of reduced healthcare costs, increased efficiency, and improved overall healthcare outcomes. The call for ongoing research and formal training in the care models and technologies associated with telemedicine reflects the evolving nature of telemedicine practice.

Standard of Care

The Board cautions that licensees providing care to North Carolina patients via telemedicine will be held to the same established standard of care as those practicing in traditional in-person medical settings. The Board does not endorse a separate standard of care for telemedicine.

Licensees utilizing telemedicine in the provision of medical services to a patient (whether existing or new) are encouraged to take appropriate steps to establish the licensee-patient relationship, conduct all appropriate evaluations consistent with established evidenced based standards of care for the particular patient presentation, and protect and maintain patient confidentiality. When the standard of care that is ordinarily applied to an in-person encounter cannot be met by virtual means, the use of telemedicine technologies is not appropriate. Licensees who fail to conform to the North Carolina statewide standard of care, may be subject to discipline by this Board.

The Board provides the following considerations to licensees as guidance in providing medical services via telemedicine:

Licensure

The Board deems the practice of medicine to occur in the state where the patient is located. Therefore, any provider[1] using telemedicine to provide medical services to patients located in North Carolina should be licensed in North Carolina unless an appropriate exception, such as those listed below, applies. Licensees need not reside in North Carolina if they have a valid, current license with the Board.

[1] For the purpose of this position statement, "provider" includes any person legally authorized to provide health care services by means of telemedicine, who is licensed in North Carolina or by a regulatory agency outside of North Carolina.

There are exceptions in North Carolina to the requirement that a physician, physician assistant, or nurse practitioner possess a North Carolina license prior to providing care for patients located in North Carolina. Those exceptions include, but are not limited to: (1) provider-to-provider consultations across state lines where a North Carolina licensee remains responsible for the care of the North Carolina patient, but an out-of-state provider consults "on an irregular basis" with the North Carolina licensee (N.C. Gen. Stat. § 90-18(c)(11)); and (2) episodic follow-up care in which the patient is temporarily located in North Carolina but has an established relationship with an out-of-state provider, i.e., the patient is attending college or vacationing in North Carolina.

North Carolina licensees intending to practice medicine via telemedicine technology to treat or diagnose patients outside of North Carolina should check with the state licensing board in the state where they intend to provide care. Most states require medical providers to be licensed in the state where the patient is located, and some have enacted limitations on telemedicine practice or require or offer a special registration. A directory of all U.S. medical boards may be accessed at the Federation of State Medical Boards' website.

Scope of Practice

A licensee who uses telemedicine should ensure that the services provided are consistent with the licensee's scope of practice, including the licensee's education, training, experience, and ability.

Training of Staff

Staff involved in the telemedicine visit should be trained in the appropriate use of the technology being used to deliver care and competent in its operation. Such training includes applicable federal and state legal requirements of medical/health information privacy, including compliance with Health Insurance Portability and Accountability Act ("HIPAA") and state privacy, confidentiality, security, and medical retention rules. Licensees may supervise and delegate tasks to qualified individuals via telemedicine technologies so long as doing so is permitted by law or established by custom.

Licensee-Patient Relationship

The Board stresses the importance of proper patient identification prior to any telemedicine encounter. Failure to verify the patient's identity may lead to fraudulent activity or the improper disclosure of confidential patient information. The licensee using telemedicine should verify the identity and location of the patient. Furthermore, the licensee's name, location, and professional credentials should be provided to the patient. Licensees using telemedicine should also ensure the availability for appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care providers.

Although it may be difficult in some circumstances to precisely define the beginning of the licensee-patient relationship, particularly when the licensee and patient are in separate locations, it tends to begin when an individual with a health-related matter seeks care from a licensee. The relationship is clearly established when the licensee agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been an in-person encounter between the

licensee and patient. A licensee-patient relationship may be established via either synchronous or asynchronous telemedicine technologies without any requirement of a prior in-person meeting, so long as the standard of care is met.

Evaluations and Examinations

Licensees using telemedicine technologies to provide care to patients located in North Carolina are encouraged to provide, or rely upon, an appropriate evaluation prior to diagnosing and/or treating the patient. This evaluation need not be in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care. There are situations, however, (*see* below under Prescribing and the Board's Position Statement "4.1.1. Contact with Patients Before Prescribing") where an initial in-person evaluation is necessary. A diagnosis should be established using accepted medical practices, i.e., a patient history, mental status evaluation, physical examination, and appropriate diagnostic and laboratory testing.

Evaluations may also be considered appropriate if a licensed health care professional is able to facilitate aspects of the patient assessment needed to render reasonable diagnostic possibilities and care plans.

As part of meeting the standard of care, licensees should use digital images, live video, or other modalities as needed to make a diagnosis if the standard of care in-person would have required physical examination. Treatment and consultation recommendations made in a virtual setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in in-person settings. If the standard of care requires an evaluation utilizing additional ancillary diagnostic testing under the standard of care, the licensee is encouraged to complete such diagnostics, arrange for the patient to obtain the needed testing, or refer the patient to another provider.

In those instances when images are being transmitted for diagnostic interpretation purposes, it is incumbent on the licensee to assure that all necessary information is obtained for review. If not, then the diagnosis provided should reflect the incomplete nature of the material and be deemed preliminary until such time as the study can be reviewed in its entirety.

Diagnosis, prescribing, or other treatment based solely on static online questionnaires, or those that do not obtain all of the information necessary to meet applicable standards of care, are not acceptable. Licensees practicing telemedicine utilizing questionnaires should have the ability to ask follow-up questions or obtain further history, especially when doing so is required to collect adequate information to appropriately diagnosis or treat.

Prescribing

Licensees are expected to practice in accordance with the Board's Position Statement "4.1.1. Contact with Patients Before Prescribing." It is the position of the Board that the current standard of care to prescribe controlled substances is not met when the only patient encounter is by means of telemedicine. Telemedicine providers may prescribe controlled substances by telemedicine when the initial evaluation has been performed by a licensed healthcare provider trained in the care of patients

requiring controlled substances. Licensees prescribing medications by means of telemedicine should comply with all relevant federal and state laws and are expected to participate in the Controlled Substances Reporting System.

Prescribing medications via telemedicine, as is the case during in-person care, is at the professional discretion of the licensee. The indication, appropriateness, and safety considerations for each prescription issued during a telemedicine encounter should be evaluated by the licensee in accordance with state and federal laws, as well as current standards of practice, and consequently carry the same professional accountability as prescriptions delivered during an encounter in person. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, licensees may exercise their judgment and prescribe medications as part of telemedicine encounters.

Medical Records

The licensee treating a patient via telemedicine should maintain a complete record of the telemedicine patient's care consistent with the prevailing medical record standards. The medical record should clearly document all aspects of care including email, text, photos, phone contact, and other forms of communication. HIPAA and related privacy and security documents should be present and signed where appropriate. Appropriate informed consent documents acknowledging the risks, limitations, alternatives, and benefits of the telemedicine encounter should be included.

The licensee should maintain the medical record's confidentiality and provide a copy of the medical record to the patient in a manner consistent with state and federal law. Licensees practicing via telemedicine will be held to the same standards of professionalism concerning the transfer of medical records and communications with the patient's primary care provider and medical home as those licensees practicing via traditional means.

Continuity of Care and Referral for Emergent Situations

Patients should be able to seek, with relative ease, follow-up care or information from the licensee [or licensee's designee] who conducts an encounter using telemedicine technologies. Licensees solely providing services using telemedicine technologies with no existing licensee-patient relationship prior to the encounter should document the encounter using telemedicine technologies that are easily available to the patient and, subject to the patient's consent, any identified care provider of the patient immediately after the encounter. Licensees have the responsibility to refer patients for in-person follow-up care when a patient's medical issue requires an additional in-person physical exam, diagnostic procedure, ancillary lab, or radiologic test.

If a patient is not an appropriate candidate for care via telemedicine technologies or experiences an emergent situation, complication, or side effects after an encounter using telemedicine technologies, licensees should have a standing plan in place and have the responsibility to refer the patient to appropriate in-person care (e.g., acute care, emergency room, or another provider) to ensure patient safety. It is insufficient for licensees to simply refer all patients to the emergency department; each situation should be evaluated on an individual basis and an appropriate referral should be made based on the severity and urgency of the situation. Licensees have an obligation to support continuity

of care for their patients. In cases wherein telemedicine encounter is insufficient, but an emergency does not exist, the provider should be capable of making an appropriate referral to an ambulatory provider within a reasonable geographical approximation to the patient and not rely on emergency or urgent care services alone.

Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient may be considered patient abandonment and may result in discipline by the Board. Subsection B: Termination of the Licensee-Patient Relationship of the Board's Position Statement titled "2.1.1: The Licensee-Patient Relationship" is applicable in the context of telemedicine/telehealth provider including the written notice, timeline, and provision of continuity of care in the interim of transfer of care to a new provider.

Disclaimers

Providers of telemedicine should consider providing a statement identifying any unique limitations of the electronic model by which care is being provided. Such patient notification can be distributed prior to providing services and included in all direct advertising to the public.

Additional Considerations

Licensees may choose to make health-related and non-health-related goods or products available to patients to meet a legitimate patient need in instances where the goods are medically necessary for patients and not immediately or reliably available to patients by other means. Licensees who choose to make goods available to patients should be mindful of the inherent power differential that characterizes the licensee-patient relationship and therefore the significant potential for exploitation of patients. The principle of non-exploitation of patients also applies to scenarios involving physician-owned pharmacies located in practice offices. In such instances, licensees should offer patients freedom of choice in filling any prescriptions and allow prescriptions to be filled elsewhere.

A licensee who incorporates artificial intelligence ("AI") tools as part of telemedicine to diagnose or treat a patient in North Carolina should (a) understand that the use of an AI tool and acceptance of suggested diagnosis or related treatment plan is at the discretion of the treating practitioner; and (b) understand the limitations of using an AI tool, including the potential bias against populations that were not adequately represented in original testing of the tool.

(Adopted: July 2010) (Amended: November 2014; March 2019; September 2023)

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

The Board believes that a fundamental component of good medical practice includes the appropriate evaluation and management of pain. Responsibly prescribed opioid medications may help North Carolina licensees treat their patients' pain safely and effectively, potentially improving their quality of life. It is the duty of any licensee prescribing opioid medications to be knowledgeable of both the therapeutic benefits, risks, and potential harm associated with opioid treatment as well as adjunctive or treatment alternatives to opioids for management of pain. The Board expects any licensee prescribing opioids for the treatment of pain to provide diagnoses, treatments, and medical record documentation that are consistent with the standard of care in North Carolina. The Board notes that a failure to provide opioid treatment consistent with the standard of care in North Carolina may subject a licensee to disciplinary action by the Board.

In order to provide licensees with guidance that reflects the most current medical and scientific research and recommended practices, the Board previously adopted and endorsed the **2016 CDC Guideline for Prescribing Opioids for Chronic Pain** ("2016 CDC Guideline") written and maintained by the Center for Disease Control and Prevention ("CDC").

In 2022, the CDC updated its 2016 CDC Guideline. The **2022 CDC Clinical Practice Guideline for Prescribing Opioids for Pain** ("2022 CDC Guideline") provides additional guidance and emphasizes the following aspects of prescribing opioids for the treatment of pain in the primary care context: (1) providing individualized pain care in the setting of a complete assessment of the risks versus benefit of all available modalities including but not limited to opioids for the management of acute, subacute, and chronic pain; (2) incorporating patient input into the choice of the various modalities chosen to treat a given patient's pain needs via shared decision-making; (3) maximizing multimodal therapies for a given patient's pain care, which may lessen the need for opioid therapy; (4) refraining from abruptly discontinuing or rapidly tapering chronic opioid therapy for those patients already on long-term therapy; and (5) thoroughly documenting the decision-making process behind the initiation, continuation, or discontinuation of opioid therapy for any given patient.

While the 2016 CDC Guideline and the 2022 CDC Guideline do not constitute regulations or necessarily state the standard of care in North Carolina in every context, the Board's believes that these guidelines can provide useful information to licensees related to the appropriate considerations to be made prior to, and during, treatment plans involving opioids. It is the Board's hope that familiarity with the concepts included in the two CDC guidance documents will help licensees provide safe and effective care for their North Carolina patients.

(Adopted: July 2005) (Amended: May 2013; January 2017; September 2023)