MINUTES

NORTH CAROLINA MEDICAL BOARD

July 18 – 19, 2018

1203 Front Street
Raleigh, North Carolina

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held July 18-19, 2018.

The July 2018 meeting of the North Carolina Medical Board was held at 1203 Front Street, Raleigh, NC 27609. Timothy E. Lietz, MD, President, called the meeting to order. Board members in attendance were: Bryant A. Murphy, MD, Secretary/Treasurer; Eleanor E. Greene, MD, Immediate Past-President; Debra A. Bolick, MD; Ralph A. Walker, JD; Venkata R. Jonnalagadda, MD; Shawn P. Parker, JD; Jerri L. Patterson, NP; Varnell D. McDonald-Fletcher, PA-C; John W. Rusher, MD; and Michaux R. Kilpatrick, MD. Board members absent: Barbara E. Walker, DO and Mr. A. Wayne Holloman.

Dr. Lietz 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.

Minutes Approval

A motion passed to approve the May 16 -18, 2018 Board Meeting minutes and the June 21-22, 2018 Hearing minutes.

Presentations

Dr. Lietz introduced Dr. John Reynolds, President, NC Medical Society (NCMS), who gave an update on the NCMS.

Dr. Lietz introduced Mr. Charles Carter, Chief Operating Officer, NC Department of Health and Human Services (DHHS), who gave an update on the Controlled Substance Reporting System (CSRS).

The Board's Deputy General Counsel and Communications Director gave an update on the Board's mission statement, vision statement and organizational values.

The Board's Special Projects Manager presented the Board Assessment report.

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. Joe Jordan, CEO, North Carolina Physicians Health Program (NCPHP), gave the PHP Compliance Committee report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

Dr. Joe Jordan, North Carolina Physicians Health Program (NCPHP), gave an update on the Office of State Auditors follow-up audit.

Dr. Debra Bolick, North Carolina Medical Board member and a member of the NCPHP Board of Directors, gave a report on NCPHP Board of Directors meeting.

NCMB ATTORNEY'S REPORT

Mr. Brian L. Blankenship, Deputy General Counsel and Thomas W. Mansfield, Chief Legal Officer, gave the Attorney's Report on Thursday, July 19, 2018.

Mr. Blankenship and Mr. Mansfield presented the open session portions of the Attorney's Report regarding the schedule for upcoming hearings, rulemaking activity and statistics regarding work performed by the Board's attorneys since the last Attorney's Report.

The Board received a report from the Deputy General Counsel and the Victim Service Coordinator, regarding the Board's Victim Services Program.

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.

A motion was passed to return to open session.

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.

Anyadike, Chukwuma Paul MD
Consent Order executed 05/04/2018

Armitage, Mark Samuel Thomas MD
Consent Order executed 06/12/2018

Carbonell, Antonio Miguel MD
Non-Disciplinary Consent Order executed 06/11/2018

Cook, Briggs Edward MD
Consent Order executed 06/07/2018

Fuller, Lance Robert MD
Consent Order executed 06/05/2018

Gettings, Justin Luke MD
Second Amended Consent Order executed 06/20/2018

Goen, Tracy Harrison MD
Consent Order executed 06/12/2018

Hall, Brent Dwayne MD
Order Dissolving Interim Public Non-Practice Agreement executed 05/31/2018

Hargrave, Ronald Paul MD
Consent Order executed 05/04/2018

Harris, John Joel MD
Consent Order executed 07/02/2018

Hart, Darlington Ibifubara MD
Notice of Charges and Allegations; Notice of Hearing; executed 06/28/2018

Hobbs, Joseph Henry PA
Interim Non-Practice Agreement executed 05/14/2018

Hussey, Felicia Duff MD
Relief of Consent Order Obligations executed 06/18/2018

Javed, Khurram MD
Public Letter of Concern executed 06/07/2018

Karam, Philip Jerome MD
Consent Order executed 05/25/2018

Kessel, John Woodruff MD
Notice of Revocation executed 06/28/2018

McKenzie, Wayland Wilson MD
Notice of Charges and Allegations; Notice of Hearing executed 07/03/2018

Mohan, Chandler Vimal MD

Consent Order executed 05/21/2018

Morrow, Vicki Olivia MD
Consent Order executed 05/25/2018

Nwadike, Valinda Riggins MD
Consent Order executed 06/06/2018

Pokharel, Saurav MD
Consent Order executed 05/30/2018

Radden, Louis Nathaniel DO
Public Letter of Concern executed 05/10/2018

Rao, Lakshman MD
Public Letter of Concern executed 05/31/2018

Reed, Tammy Marie DO
Consent Order executed 05/22/2018

Reilly, Preston Scott MD
Relief of Non-Disciplinary Consent Order Obligations executed 05/23/2018

Taylor, Jeffrey Todd
Public Letter of Concern executed 06/12/2018

Teotonio, Jean Felipe MD
Consent Order executed 06/19/2018

Turner, Lee Leatherwood MD
Interim Non-Practice Agreement executed 05/14/2018

Waronsky, Roy George PA
Relief of Consent Order Obligations executed 05/21/2018

Wolfe, William Ralph
Consent Order executed 06/05/2018

Yates, Gwendolyn Maria MD
Public Letter of Concern executed 06/19/2018

NCMB Committee Reports

EXECUTIVE COMMITTEE REPORT

Members present were: Timothy E. Lietz, MD, Chairperson; Eleanor E. Greene, MD; and Bryant A. Murphy, MD.

Members absent were: Barbara E. Walker, DO and A. Wayne Holloman

Strategic Plan

a. 2018 Strategic Priorities Update

The Committee reviewed the updated Strategic Priorities Tracker.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

Financial Statements

a. Year-to-Date Financial Statements

The Committee reviewed the financial information in the new format, which is configured now as year to date totals.

Committee Recommendation: Accept the financial statements as reported.

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

b. Investment Account Statements

The Committee reviewed the investment statements for May and June 2018.

Committee Recommendation: Accept the investment statements as reported.

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

Old Business

a. Office Space Project Update

The staff Office Space Project Team is gathering information to address the need for additional workspace: Options include (1) renovate existing building, (2) lease space, (3) buy/renovate a building, and (4) new construction.

The Committee received an update regarding these four options.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. Physician Wellness Summit

A workgroup of the NC Consortium for Physician Resilience and Retention is planning a Physician Wellness Summit for October 17-18 at the Crabtree Marriott. Staff provided an update including possible speakers and draft agenda.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

New Business

a. NCMB Appointments Update

The NCMB Review Panel will meet in late August to conduct interviews, discuss the candidates, and decide whom to nominate for the four open seats. This year, candidates not already on the Board were invited to attend the June hearings and the July Board meeting to learn more about serving on the Board.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. Enhanced Revenue Initiative

Fees are authorized in one of three ways: (1) by statute, (1) by rule, or (3) to recover the reasonable cost of a public records request. Staff has completed a comprehensive review of NCMB's fees and services and recommends the following fee increases:

	Current Fee	Proposed Fee
Physician Assistant (PA) License Application Fee	$200	$230

PA Annual Renewal Fee	$100	$140
PA Annual Renewal Late Fee	$20	$25
Anesthesiologist Assistant (AA) Application Fee	$150	$230
AA Annual Renewal Fee	$125	$140
Corporations – Initial	$50	$200
Corporations – Renewal	$25	$100
Corporate reinstatement – less than 12 months	$25	$100 + $25 late fee
Corporate reinstatement – 12 or more months	$50	$100 + $25 per year
Articles of Amendment, name change, adding/ removing a shareholder or member, non-objection letters, articles of conversion, articles of merger		$25
Roster Report	$25	$150
License Verification	$25	$50
DataLiNC	$500-2,500 per year	$750-3,000 per year

Committee Recommendation: Approve the proposed changes.

Board Action: Accept Committee recommendation. Approve the proposed changes.

c. American Council for Continuing Medical Education (ACCME) Pilot Project

ACCME has invited the NCMB to participate in a pilot program whereby a NC-licensed physician could give CME providers permission to share the following information with ACCME: name, day/month of date of birth, NPI number and/or NCMB license number, learning activity description and number of Category 1 hours earned. If a physician participates in this program and is randomly selected for a CME compliance check, the NCMB could verify compliance directly with ACCME and without bothering the physician.

If the physician does not participate and is selected, the NCMB would proceed as per our usual protocol.

Committee Recommendation: Approve participation in the pilot program.

Board Action: Accept Committee recommendation. Approve participation in the pilot program.

d. NC Physicians Health Program (NCPHP) Annual Audit

The Committee reviewed the recently completed NCPHP financial audit. In the auditor's opinion, "the financial statements . . . present fairly, in all material respects, the financial position of North Carolina Physicians Health Program, Inc. as of December 31, 2017 and 2016. . .."

Committee Recommendation: Accept as Information.

Board Action: Accept Committee recommendation. Accept as Information.

e. Officers and At-Large Executive Committee Member Nominations

Every year, the Executive Committee must nominate to the Board a slate of officers and an at-large Executive Committee member for the upcoming year.

Committee Recommendation: President-Elect: Bryant A. Murphy, MD; Secretary/Treasurer: Venkata R. Jonnalagadda, MD; Executive Committee Member-at-Large: A. Wayne Holloman

Board Action: Accept Committee recommendation. President-Elect: Bryant A. Murphy, MD;
Secretary/Treasurer: Venkata R. Jonnalagadda, MD; Executive Committee Member-at-Large: A. Wayne Holloman

POLICY COMMITTEE REPORT

Members present were: Shawn P. Parker, JD, Chairperson; Debra A. Bolick, MD; Ralph A. Walker, JD; Jerri L. Patterson, NP; and Michaux R. Kilpatrick, MD.

New Business:

a. Composite Position Statement Pertaining to Medical Records (Appendix A)

The Committee reviewed the proposed composite position statement favorably. The Committee discussed whether to make a recommended change to the paragraph that addresses charging fees for photo copies of medical records and discussion ensued about removing the specific statutory reference. The Committee also inquired as to how staff could communicate to the licensee population that the composite position statement had been adopted.

Committee Recommendation: Accept proposed position statement.

Board Action: Accept Committee recommendation. Accept proposed position statement.

b. Clinician Obligation to Complete a Certificate of Death

During the Committee meeting, staff provided the genesis of the proposed position statement and summarized research on how other states have dealt with this issue. Staff expressed that the proposed position statement was drafted to be an educational tool for licensees and would hopefully help to settle disputes and deal with a serious problem that is regularly encountered by staff at the Board. Specific mention was made to using the position statement in conjunction with a future law that would provide immunity to physicians who sign a Certificate of Death. The Committee viewed the position statement as well-written and felt it should be published to the licensee population for comment.

Committee Recommendation: Submit position statement for review and comment by the licensee population. Bring back comments from licensee population for discussion before final decision on adoption of position statement.

Board Action: Accept Committee recommendation. Submit position statement for review and comment by the licensee population. Bring back comments from licensee population for discussion before final decision on adoption of position statement.

c. Guidelines for Stem Cell Treatment in Other States

Staff summarized their research pertaining to stem cell treatment guidelines in other states. Staff felt it was premature for the Committee to draft a proposed position statement and recommended waiting for the issue to evolve further. Staff also recommended that if in the future the Committee does draft a proposed position statement regarding stem cell treatment that it look to the Federation of State Medical Boards' guidelines to provide guidance. Committee members briefly discussed their experience regarding certain patients who have sought treatment for pain through stem cell treatment.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

d. Chaperones During Physical Examinations

A committee member expressed concern that the Committee needed to revisit the idea of whether the position statement should make it mandatory for chaperones to be in the room during certain examinations performed by physicians.

Committee Recommendation: Bring back for discussion at the September 2018 Board meeting.

Board Action: Accept Committee recommendation. Bring back for discussion at the September 2018 Board meeting.

e. Scheduling Matters for Future Policy Committee Meetings

As a matter of efficiency, the Committee Chairperson expressed interest in using Policy Committee as a forum for certain presentations in the future. After hearing the presentations, the Committee could provide summaries and make recommendations, if any, to the full Board.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

Other:

a. Position Statement Review Tracking Chart

Committee Recommendation: Review (1) Medical Supervisor-Trainee Relationship; (2) Advertising and Publicity; and (3) Telemedicine at the September 2018 Board meeting.

Board Action: Review (1) Telemedicine and (2) Medical, Nursing, Pharmacy Boards: Joint Statement on Pain Management in End-of-Life Care at the September 2018 Board meeting.

LICENSE COMMITTEE REPORT

Members present were: Debra A. Bolick MD, Chairperson; Varnell McDonald-Fletcher, PA-C; Venkata R. Jonnalagadda, MD; Ralph A. Walker, JD; and Michaux Kilpatrick, 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 two 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 McDonald-Fletcher, PA-C, Chairperson; John W. Rusher, MD; Jerri L. Patterson, NP; and Ralph A. Walker, JD.

New Business:

a. Physician Assistants

   Staff debriefed the Committee regarding an Executive Committee decision to recommend fee increases for PA license applications and renewals. License applications are proposed to increase from $200 to $230, and license renewals are proposed to increase from $100 to $140.

   Committee recommendation: Receive as information.

   Board Action: Accept Committee recommendation. Receive as information.

b. Perfusionist Advisory Committee

The Board received one application to fill the open seat on the PAC. The committee members voted to extend the application period to September 1, 2018.

Committee recommendation: Extend application period to September 1, 2018.

Board Action: Accept Committee recommendation. Extend application period to September 1, 2018.

c. Nurse Practitioners

Committee discussed what efforts can be taken to coordinate reports from DHHS regarding opioid overdose deaths of patients who received opioids from physicians and the physician assistants and nurse practitioners they supervise.

Committee recommendation: Direct staff to work with the Nursing Board and DHHS regarding the coordination of reports.

Board Action: Accept Committee recommendation. Direct staff to work with the Nursing Board and DHHS regarding the coordination of reports.

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 Advanced Practice Providers and Allied Health Committee received as information a report from the Nurse Practitioner Joint Subcommittee Panel ("Panel"). The Panel's written report was presented for the Board's review, where it was also received as information. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

DISCIPLINARY (COMPLAINTS) COMMITTEE REPORT

Members present were: Venkata Jonnalagadda, MD, Chairperson; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Shawn P. Parker, JD; and John W. Rusher, MD. Member absent: Barbara E. Walker, DO.

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 reported on 20 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: Venkata R. Jonnalagadda, MD, Chairperson; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Shawn P. Parker, JD; and John W. Rusher, MD. Member absent were: Barbara E. Walker, DO.

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 reported on 24 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 (DEPARTMENT of HEALTH and HUMAN SERVICES) (DHHS) COMMITTEE REPORT

Members present were: Venkata R. Jonnalagadda, MD, Chairperson; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Shawn P. Parker, JD; and John W. Rusher, MD. Members absent: Barbara E. Walker, DO.

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 reported on two 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: Venkata R. Jonnalagadda, MD, Chairperson; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Shawn P. Parker, JD; and John W. Rusher, MD. Member absent were: Barbara E. Walker, DO.

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.

Forty-one investigative cases were reviewed. 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.

Six 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.

CONTROLLED SUBSTANCES CONTINUING MEDICAL EDUCATION (CS CME) PLANNING COMMITTEE

Board Members present were: Jerri L. Patterson, NP, Chairperson; Bryant A. Murphy, MD; and Venkata R. Jonnalagadda, MD.

Old Business

a. Update on sessions in planning

The Committee reviewed the upcoming sessions. Three sessions remain in the current grant cycle. One more session in Lee County has been added to the schedule based on additional trainings that are being planned for the Wake Area Health Education Committee (AHEC) region.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

b. Feedback from sessions to date

Feedback from the sessions continues to be positive and attendance is generally still reaching 75-100 people per session. We continue to receive positive feedback from attendees, especially for those held in rural areas.

Dr. Lietz recently moderated a session in Shelby when a previously scheduled moderator was unable to make it. Dr. Rusher served as the NCMB representative for a session at Wake Med, which was very well attended (over 225 in attendance).

The Committee received anecdotal feedback from physicians that there are still pockets of licensees that are not aware of the STOP Act or its implications. The Committee discussed opportunities to understand the disconnect and develop tools for further outreach, including compiling suggestions from the feedback for future use on the website (FAQs) or for an article in the Forum.

The Committee reviewed a list of Board members and staff who have participated in the sessions and noted the importance of broad engagement.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

c. Statewide opioid prescribing training initiative ‘wrap up’ update

The Committee received an update on the recording of one of the remaining panel sessions (Randolph County on 6/20) as well as re-recording the webinar using grant funds secured by Wake AHEC. At the last meeting, the Committee voted to have the panel session ‘staged’ instead of recording a live session. After consulting with the videography company, the recommendation has shifted to record a live session and address any issues with audience sound or errors in the content in post-production. The Committee discussed this new recommendation and there were no objections.

The panel session will be split into two approximately one-hour modules for the website. The staff will work on how the content will be divided and make any adjustments needed

with regard to the audience polling. Additionally, the webinar will be re-recorded to provide an enhanced update to the content and also to video record the presentation to have a more engaging presentation.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

New Business

a. Additional trainings in Wake AHEC region

The Committee received a report that Wake AHEC received additional funding to hold sessions in the Wake AHEC region. These sessions would be held at area hospitals where there would be limited expense for food or location rental costs. NCMB's commitment would continue to be focused on recruiting speakers and having representatives at the session. One session occurred on June 26th in Sanford. The two remaining sessions have not been scheduled. Wake AHEC is contacting the hospitals they work with regularly in some of the more rural counties in their region to determine if there is a need for additional trainings.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

OUTREACH COMMITTEE

Members present were: Eleanor E. Greene, MD, Acting Chair; and John W. Rusher, MD.
Members absent were: Barbara E. Walker, DO; and A. Wayne Holloman.

Old Business

a. Overview of Outreach Activities (Presentations)

The Communications Director summarized professional outreach activities for the year to date. Efforts to schedule more presentations to residency programs have borne some fruit, and the Communications Department is continuing to contact residency program contacts to secure these opportunities. It was noted that new residents started July 1, which may be a difficult time for residency training programs to host the Board.

Committee recommendation: Accept as information

Board action: Accept Committee recommendation. Accept as information

b. Update on public presentations to consumer audiences

The committee discussed outreach to community groups. The Communications Department is continuing to identify opportunities to present to the public.

Committee recommendation: Accept as information

Board action: Accept Committee recommendation. Accept as information.

c. Licensee survey update

The Chief Communications Officer (CCO) briefly noted that the licensee survey has been completed. Discussion of findings was deferred until Thursday, July 19, when the CCO will present the survey results to the full Board.

Committee recommendation: Deferred to full Board until Thursday, July 19, 2018.

Board Action: Accept Committee recommendation. Deferred to full Board until Thursday, July 19, 2018.

Old Business

a. Overview of Outreach Activities (Presentations)

The Communications Director summarized professional outreach activities for the year to date. Efforts to schedule more presentations to residency programs have borne some fruit, and the Communications Department is continuing to contact residency program contacts to secure these opportunities. It was noted that new residents started July 1, which may be a difficult time for residency training programs to host the Board.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information

b. Update on public presentations to consumer audiences

The committee discussed outreach to community groups. The Communications Department is continuing to identify opportunities to present to the public.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

c. Licensee Survey Update

The Chief Communications Officer (CCO) briefly noted that the licensee survey has been completed. Discussion of findings was deferred until Thursday, July 19, when the CCO will present the survey results to the full Board.

Committee recommendation: Deferred to full Board until Thursday, July 19, 2018.

Board action: Accept Committee recommendation. Deferred to full Board until Thursday, July 19, 2018.

New Business

a. New resources

The Communications Director reviewed two recent projects that resulted in new resources for use with public and professional audiences. The Communications Department has designed a brochure that discusses NCMB's Victim Services Program, which supports victims who report sexual assault or other misconduct to the Board. The Communications Department has also developed a brochure and flyer to help promote DataLiNC, a subscription services offered by NCMB that allows hospitals and health care organizations to monitor specific licensees to ensure timely notification of public actions. The Communications Department is currently brainstorming ideas for additional resources for the public and by licensees. The department will review recent licensee survey results to identify opportunities for needed professional resources.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

DIVERSITY WORKGROUP

Members present were: Eleanor E. Greene, MD, Chairperson; Shawn P. Parker, JD; and Michaux R. Kilpatrick, MD.

Old Business

a. Update on staff Training on Diversity and Inclusion in the Workplace

NCMB's HR Manager discussed the coordination of additional training for the Board members and Staff around Diversity and Inclusion for the September 2018 Board meeting. The last training on this subject was provided in late 2017 to both the Board members and Staff.

b. Status update on the Mission and Vision Statement

The HR Manager presented a final draft of the proposed Diversity & Inclusion statement during the meeting. The workgroup made some final edits and recommendation to the draft statement. The workgroup feels that it should be in position to present a final version to the full Board for review and acceptance during the September meeting.

c. The Workgroup discussed focusing on the three core principles:
    1. Education (Board & Staff)
    2. Communication (Board & Staff)
    3. Compliance (NC Medical Board)

    The workgroup discussed how the three core principles should tie into the Mission and Vision statement as well.

New Business

a. Update on staffing

    Recent positions filled:
    1. Leena McAteer (Credentialing Coordinator)
    2. Sara Rigby (Operations Associate)
    3. John Moss (Legal Intern)

    Current open position
    1. Quality of Care Case review resource (8/2018)

b. Staff Statistics

    The HR Manager presented a snapshot of The Medical Board's staff; by race, age and gender. The data indicates we are making progress as it relates to becoming a more diverse organization. The current staff headcount is 56 employees and will increase to 57 by September 2018.

Other:

a. Human Resources Manager Training

    The HR Manager attended a Diversity and Inclusion presentation on Tuesday, July 17, 2018 and provided overview of this presentation titled "Diversity and Inclusion from the Inside Out"

    The workgroup had a lengthy discussion around its role and purpose for both the Board and the Staff. The HR Manager will meet with the CEO for more specific clarity.

The Committee agreed to hold another meeting in September 2018. The Diversity Workgroup will present a mission statement during this meeting.

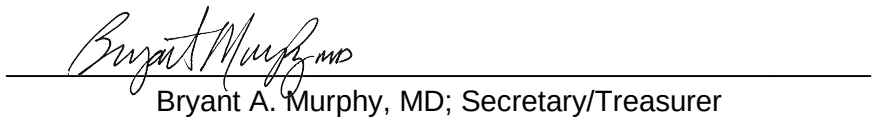
Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

ADJOURNMENT

The Medical Board adjourned at 6:06 p.m. on Thursday, July 19, 2018.

The next meeting of the Medical Board is scheduled for September 19-21, 2018.



Bryant A. Murphy, MD; Secretary/Treasurer

MEDICAL RECORDS – Documentation, Electronic Health Records, Access, and Retention

Documentation

The North Carolina Medical Board takes the position that an accurate, current, and complete medical record is an essential component of patient care. Licensees should maintain a medical record for each patient to whom they provide care. The medical record should be legible. When the caregiver does not write legibly, notes should be dictated, transcribed, reviewed, and signed within a reasonable time. It is incumbent upon the licensee to ensure that the transcription of notes is accurate (particularly in those instances where dictation software is utilized).

The medical record is a chronological document that:

- Records pertinent facts about an individual's health and wellness;
- Enables the treating care provider to plan and evaluate treatments or interventions;
- Enhances communication between professionals, assuring the patient optimum continuity of care;
- Assists both patient and physician in communication with third party participants;
- Allows the physician to develop an ongoing quality assurance program;
- Provides a legal document to verify the delivery of care; and
- Is available as a source of clinical data for research and education.

The following required elements should be present in all medical records:

- The purpose of each patient encounter and appropriate information about the patient's history and examination, plan for any treatment, and the care and treatment provided;
- The patient's past medical history including serious accidents, operations, significant illnesses, and other appropriate information;
- Prominent notation of medication and other significant allergies, or a statement of their absence;
- Clearly documented informed consent obtained from the patient when appropriate; and
- Date of each entry.

The following additional elements reflect commonly accepted standards for medical record documentation:

- Each page in the medical record contains the patient's name or ID number.
- Personal biographical information such as home address, employer, marital status, and all telephone numbers, including home, work, and mobile phone numbers.
- All entries in the medical record contain the author's identification. Author identification may be a handwritten signature, initials, or a unique electronic identifier.

- All drug therapies are listed, including dosage instructions and, when appropriate, indication of refill limits. Prescription refills should be recorded.
- Encounter notes should include appropriate arrangements and specified times for follow-up care.
- All consultation, laboratory, and imaging reports should be entered into the patient's record, reviewed, and the review documented by the practitioner who ordered them. Abnormal reports should be noted in the record, along with corresponding follow-up plans and actions taken.
- An appropriate immunization record is evident and kept up to date.
- Appropriate preventive screening and services are offered in accordance with the accepted practice guidelines.

Electronic Health Records

The Board recognizes and encourages the trend towards the use of electronic health records ("EHR"). The promise and potential of information technology in health care, particularly the use of EHR presents providers with distinct challenges. While the Board encourages the adoption and appropriate use of various forms of EHR, there are some unique aspects and problems associated with EHR that have been repeatedly encountered by the Board, some of which are discussed below. This subsection is meant to identify issues which the Board has repeatedly found to be problematic in malpractice and complaint cases coming to the Board's attention. It is important to recognize that this, and other Board position statements, are not comprehensive and do not describe exhaustively every standard that might apply in every circumstance. Basic, well-established principles of medical record documentation, as outlined above, apply to all forms of medical record documentation, including EHR.

The following guidelines are offered to assist licensees in meeting their ethical and legal obligations:

- *EHR Deficiencies.* Providers, on occasion, attribute errors or lack of follow-up, such as missed or lost abnormal laboratory results or x-ray reports, to deficiencies in their EHR. This is not acceptable. Providers must be aware of the idiosyncrasies and weaknesses of the EHR system they are using and adjust their practice accordingly. Providers are ultimately responsible for the adequate oversight and monitoring of the EHR.

- *Responsibility of Licensees.* EHR are becoming increasing sophisticated and may provide flags for follow-up care or other clinical decision-making support, such as health maintenance recommendations. While an EHR system may assist in the clinical decision-making process, it is not responsible for decision making. For example, it is not acceptable to blame an EHR because it failed to recommend particular testing. Increasingly elaborate documentation, clinical management, and productivity tools may also result in increased opportunities for errors or omissions. These errors are a failure of the provider to assume appropriate responsibility for the care of the patient. In the

end, decision-making responsibility rests solely with the provider; regardless of the information or notices provided by the EHR.

- *Use of Templates.* The Board cautions against overuse of template content or reliance on EHR software which pre-populates, carries forward, or clones information from one encounter to the next, or from different providers, without the provider carefully reviewing and updating all information. Documentation of clinical findings for each patient encounter must accurately and contemporaneously reflect the actual care provided.

- *Availability of, or Access to, EHR.* Physicians must be able to provide patient medical records in a timely manner for various situations, such as consultations, transfer of care to another provider, or practice closure. The Board has encountered situations where providers were unable to access their patients' medical records due to fee or other disputes with the EHR vendor. This is particularly true when the medical records are maintained off site (cloud storage). Providers must understand provisions of their contract with the EHR vendor in this regard. These principles of medical record access apply as well to telemedicine providers.

- *Breakdown of Patient-Provider Communication.* Misunderstandings and miscommunications between patients, patient family members, practitioners, and office staff generate a substantial percentage of complaints received by the Board. Many EHR systems allow direct patient-provider communication (i.e. "patient portal"). While this form of communication can facilitate communication, such as follow-up of lab or x-ray results or medication refills, they also place a responsibility on the provider to provide timely responses to legitimate requests from patients for feedback or information.

- *Employed Licensees and Independent Contractors*. The Board recommends all employed licensees/independent contractors review their employment agreements regarding ownership of the EHR. There should be explicit provisions which set forth the rights and duties of the practice and the licensee upon termination of employment, with regards to notification of patients and access to medical records.

<u>Access to Medical Records</u>

A licensee's policies and practices relating to medical records under his or her control should be designed to benefit the health and welfare of patients, whether current or past, and should facilitate the transfer of clear and reliable information about a patient's care. Such policies and practices should conform to applicable federal and state laws governing health information.

It is the position of the North Carolina Medical Board that notes made by a licensee in the course of diagnosing and treating patients are primarily for the licensee's use and to promote continuity of care. Patients, however, have a substantial right of access to their medical records and a qualified right to amend their medical records pursuant to HIPAA privacy regulations.

Medical records are confidential documents and should only be released when permitted by law or with proper written authorization of the patient. Licensees are responsible for safeguarding and protecting the medical record and for providing adequate security measures.

Each licensee has a duty on the request of a patient or the patient's representative to release a copy of the record in a timely manner to the patient or the patient's representative, unless the licensee believes that such release would endanger the patient's life or cause harm to another person. This includes medical records received from other licensees' offices or health care facilities. A summary may be provided in lieu of providing access to or copies of medical records only if the patient agrees in advance to such a summary and to any fees imposed for its production.

Licensees may charge a reasonable fee for the preparation and/or the photocopying of medical records, keeping in mind that state law limits fees a licensee can charge for copies of medical records in certain cases, including liability claims for personal injury, social security disability claims, and workers' compensation claims. To assist in avoiding misunderstandings, and for a reasonable fee, the licensee should be willing to review the medical records with the patient at the patient's request. Medical records should not be withheld because an account is overdue or a bill is owed (including charges for copies or summaries of medical records).

Should it be the licensee's policy to complete insurance or other forms for established patients, it is the position of the Board that the licensee should complete those forms in a timely manner. If a form is simple, the licensee should perform this task for no fee. If a form is complex, the licensee may charge a reasonable fee.

To prevent misunderstandings, the licensee's policies about providing copies or summaries of medical records and about completing forms should be made available in writing to patients when the licensee-patient relationship begins.

Licensees should not relinquish control over their patients' medical records to third parties unless there is an enforceable agreement that includes adequate provisions to protect patient confidentiality and to ensure access to those medical records.*

When responding to subpoenas for medical records, unless there is a court or administrative order, licensees should follow the applicable federal regulations.

Retention of Medical Records

Licensees have both a legal and ethical obligation to retain patient medical records. The Board, therefore, recognizes the necessity and importance of a licensee's proper maintenance, retention, and disposition of medical records. Patient interests related to present and future healthcare needs should be a licensee's primary consideration when determining how long to retain medical records.

Other Considerations and Board Expectations:

- Patients should be notified regarding how long the licensee will retain medical records.
    - In order to preserve confidentiality when discarding old medical records, all medical records should be retained and destroyed in a HIPAA compliant manner, including both paper medical records and EHR. If it is feasible, patients should be given an opportunity to claim the medical records or have them sent to another care provider before old medical records are discarded.
- The licensee should respond in a timely manner to requests from patients for access to, or copies of, their medical records.
- Licensees should notify patients of the amount, and under what circumstances, the licensee will charge for copies of a patient's medical record.
- Those licensees providing episodic care should attempt to provide a copy of the patient's medical record to the patient, the patient's primary care provider, or, if applicable, the referring licensee.

It should be noted that these expectations relate solely to Board inquiries and do not preempt other legal or ethical record retention requirements. Licensees are encouraged to seek advice from private legal counsel and/or their malpractice insurance carrier.

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*NOTE: Refer also to the Board's Position Statement on Departures from or Closings of Medical Practices.