MINUTES

NORTH CAROLINA MEDICAL BOARD

November 14 - 16, 2018

1203 Front Street
Raleigh, North Carolina

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held November 14 - 16, 2018.

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

Instillation Ceremony and New Officer Oaths

Dr. Timothy E. Lietz administered the Oath of Office for President to Dr. Barbara E. Walker.

Dr. Walker presented Dr. Lietz with a presidential resolution and gavel plaque for his service as President of the North Carolina Medical Board for 2017 - 2018.

Dr. Walker administered the Oath of Office for President-Elect to Dr. Bryant A. Murphy and for Secretary/Treasurer to Dr. Venkata R. Jonnalagadda. She also administered the New Board Member Oath to Dr. Christine M. Khandelwal.

Presidential Remarks

Dr. Walker commenced the meeting by asking Dr. Lietz's to share his final words as President, followed by Dr. Walker sharing her first words as President. She also 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 September 12, 2018 Emergency Hearing Meeting minutes; the September 19-21, 2018 Board Meeting minutes and the October 12, 2018 Hearing Meeting minutes.

Presentations

Dr. Walker introduced Hugh Tilson, the facilitator for the 2018 Strategic Retreat, to summarize the process for and output from the retreat used to define the 2019-2020 strategic priorities. The context for these efforts is striving to be content experts, trusted advisors, and increasingly visible to licensees, the public, policy makers and stakeholders, as intended in these Strategic Priorities will enhance the Board's efforts to accomplish its mission and vision. The Board staff will define specific activities to bring the following 2019-2020 strategic priorities to fruition: (1)

enhance efficiency and effectiveness of Board operations [Organizational Capacity]; (2) improve understanding of NCMB's work and benefits [Outreach]; (3) ensure state of the art regulation, today and tomorrow [Regulation and Policy]; and (4) pursue policy maker support [Government Relations].

Drs. Lietz and Greene presented a report of the International Association of Medical Regulatory Authorities (IAMRA) conference "Empowering Regulation with Innovation and Evidence" held October 6-9, 2018 in Dubai.

The Chief Communications Officer presented the results of the public survey that was conducted in 2018. NCMB surveyed stakeholders to measure awareness of outreach initiatives and impact of engagement. By surveying the Public (one of the Board's stakeholders), the Board staff can measure the Board's success in these endeavors.

Mr. Shawn Parker presented an update from the Naturopathy workgroup. He also gave the Board of Directors update from the Federation of State Medical Boards meeting. Both meetings were held in October 2018.

Dr. Murphy gave the State Board Advisory Panel to the United States Medical Licensing Examination (USMLE) report. The meeting was held October 2018 in Philadelphia at the National Board of Medical Examiners office.

The Chief Medical Officer gave an update of the North Carolina Consortium for Physician Resilience and Retention Wellness Summit held October 2018 in Raleigh, NC. The focus was on Leadership and Physician Well-being: A Meaningful and Financially Health Connection.

Ms. Patterson shared photos from her trip to Ireland.

Announcements

NORTH CAROLINA PHYSICIAN HEALTH PROGRAM REPORTS (NCPHP)

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

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

A motion passed to return to open session.

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

NCMB ATTORNEY'S REPORT

Mr. Brian L. Blankenship, Deputy General Counsel and Mr. Thomas W. Mansfield, Chief Legal Officer, gave the Attorney's Report on Friday, November 16, 2018.

Messrs. Blankenship and 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.

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.

Ahmed, Fatima Sayyeda MD
Reentry Agreement executed 10/25/2018

Bowles III, Robert Bradford MD
Consent Order executed 09/05/2018

Cooper, Joseph Litton MD
Public Letter of Concern executed 10/05/2018

Davidson, Larry Steve MD
Non-Disciplinary Consent Order executed 09/28/2018

Fink, Gary Lee MD
Notice of Charges and Allegations; Notice of Hearing executed 09/25/2018

Flechas, Jorge David MD
Public Letter of Concern executed 10/10/2018

Flom, Jonathan Andrew MD
Consent Order executed 10/10/2018

Hagan Jr., Paul MD
Consent Order executed 10/10/2018

Hall, Brent Dwayne MD
Consent Order executed 10/25/2018

Hart, Darlington Ibifubara MD
Consent Order executed 10/18/2018

Kim, Jong Whan MD
Interim Non-Practice Agreement executed 09/05/2018

Kirtley Jr., Thomas Lloyd MD
Consent Order executed 10/26/2018

Laicer, Cleopatra DO
Consent Order executed 10/01/2018

McKeown, John Michael MD
Relief of Consent Order Obligations executed 10/25/2018

Narasimhan, Lakshmi M.R. MD
Consent Order executed 10/22/2018

O'Rourke III, Peter John MD
Public Letter of Concern executed 09/26/2018

Park, Aaron MD
Public Letter of Concern executed 10/23/2018

Ray, Julia MD
Public Letter of Concern executed 10/02/2018

Saad, Maged Hanna MD
Public Letter of Concern executed 10/26/2018

Sappington, John Shannon MD
Interim Non-Practice Agreement executed 10/16/2018

Skeen, James Thomas MD
Consent Order executed 10/18/2018

Turner, Lee Leatherwood MD
Consent Order executed 10/26/2018

Wiley, Jerry William MD
Consent Order executed 10/22/2018

Zabenko, Robert Tracy DO
Public Letter of Concern executed 10/16/2018

Legislative Update

The Board received a legislative update from The Chief Legal Officer and Chief Communications Officer. They reviewed certain potential revisions to the Medical Practice Act to occur in the 2019 session of the North Carolina General Assembly. In September 2018, the Board discussed the possibility of a statutory requirement to report to the Board information regarding diversion of controlled substances or professional sexual misconduct. The Board requested staff continue to discuss and pursue this and other provisions with stakeholders. The Board requested that the proposed revisions to the Medical Practice Act be returned for consideration at the January 2019 meeting.

NCMB Committee Reports

EXECUTIVE COMMITTEE REPORT

Members present were: Barbara E. Walker, DO, Chair; Timothy E. Lietz, MD; Bryant A. Murphy, MD; Venkata R. Jonnalagadda, MD; 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 following financial reports: Balance Sheet; Profit & Loss versus Budget; and the Profit & Loss Comparison.

Committee Recommendation: Accept the financial statements as reported.

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

b. Investment Account Statements

The Committee reviewed the investment statements for September and October 2018.

Committee Recommendation: Accept the investment statements as reported.

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

Old Business

a. Building Update

The Executive Team recommends the Board pursue the following office space options concurrently: (1) identify a parcel of land to build a new building, and (2) identify an existing building to renovate. Net cost not to exceed nine million dollars, property to be located within 15 miles of the current NCMB office, and a building of approximately 30,000 square feet.

Committee Recommendation: Approve Executive Team recommendation.

Board Action: Accept Committee recommendation. Approve Executive Team recommendation.

New Business

a. Appointment of a Physicians Health Program Compliance Committee Member

The Board needs to appoint a new member to the North Carolina Physicians Health Program (NCPHP) Compliance Committee. The term for Karen Gerancher, MD, expires December 31, 2018. The new member must have been off the Board at least three years. Staff is in the process of recruiting Dr. Gerancher's replacement.

Committee Recommendation: Delegate the authority to appoint a NCMB representative to the NCPHP Compliance Committee to the Board President.

Board Action: Accept Committee recommendation. Delegate the authority to appoint a NCMB representative to the NCPHP Compliance Committee to the Board President.

POLICY COMMITTEE REPORT

Members present were: Bryant A. Murphy MD, Chairperson; Debra A. Bolick, MD; Varnell D. McDonald-Fletcher, PA-C; Shawn P. Parker, JD; and John W. Rusher, MD.

Old Business:

a. Clinician Obligation to Complete a Certificate of Death

Staff commented that the signing of death certificates was still very much an ongoing issue. Staff and the Committee felt that additional time was needed to carefully consider the comments received thus far by licensees and stakeholders and that the proposed position statement would need to be revised to incorporate some of those comments. The Committee expressed the need to receive feedback from the Office of the Chief Medical Examiner. The Committee also discussed the current statutory language requiring licensees to provide the precise cause of death and complete the death certificate in a relatively brief time (currently "no more than three days after death"). The Committee then contemplated whether this would be the time to move to revise the statutory language to provide licensees greater legal protection for good faith efforts to complete death certificates.

Committee Recommendation: Receive comments from the Office of the Chief Medical Examiner. Revise the position statement to incorporate comments received from licensees and stakeholders. Bring back for review and consideration at the January 2019 Board meeting.

Board Action: Accept Committee recommendation. Receive comments from the Office of the Chief Medical Examiner. Revise the position statement to incorporate comments received from licensees and stakeholders. Bring back for review and consideration at the January 2019 Board meeting.

b. Telemedicine

The Committee summarized the prior discussion and presentation at the September 2018 Board meeting. The Committee expressed concerns about the need for more regulation and discussed how to better relay the Board's expectations to licensees practicing telemedicine. The Committee felt it was important that the position statement be drafted in such a way as to not interfere with access to care. Specific concerns were raised regarding the prescribing of controlled substances through telemedicine. The Committee agreed that the position statement should be revised.

Committee Recommendation: Assign staff the task of drafting a revised position statement. Bring back for review and consideration at the January 2019 Board meeting.

Board Action: Accept Committee recommendation. Assign staff the task of drafting a revised position statement. Bring back for review and consideration at the January 2019 Board meeting.

c. Guidelines for Avoiding Misunderstandings During Physical Examinations (Appendix A)

The Committee reviewed the revised position statement favorably. The Committee asked staff to explain the inclusion of the language regarding some licensees' adoption of a more informal approach to patient interactions. The Committee also requested that the position statement be revised to include the phrase "but are not limited to" in bullet point number five so it reads as follows:

"Sexual impropriety by the licensee may include behavior, gestures, comments, or expressions that are seductive, sexually suggestive, disrespectful of patient privacy, or sexually demeaning to a patient, and may include, but are not limited to:"

The Committee asked that the position statement be published to licensees and stakeholders for review and comment.

Committee Recommendation: Edit revised position statement to include "but are not limited to" in bullet point number five. Submit position statement for review and comment by licensees and stakeholders.

Board Action: Accept Committee recommendation. Edit revised position statement to include "but are not limited to" in bullet point number five. Submit position statement for review and comment by licensees and stakeholders.

d. Position Statement Review Tracking Chart

Committee Recommendation: Bring back "Clinician Obligation to Complete a Certificate of Death" and "Telemedicine" for review, provide update from "Medical, Nursing, and Pharmacy Boards: Joint Statement on Pain Management in End-of-Life Care"

workgroup, and review “Collaborative Care Within the Healthcare Team” as new business at the January 2019 Board meeting.

Board Action: Accept Committee recommendation. Bring back “Clinician Obligation to Complete a Certificate of Death” and “Telemedicine” for review, provide update from “Medical, Nursing, and Pharmacy Boards: Joint Statement on Pain Management in End-of-Life Care” workgroup, and review “Collaborative Care Within the Healthcare Team” as new business at the January 2019 Board meeting.

LICENSE COMMITTEE REPORT

Members present were: Michaux Kilpatrick, MD, Chairperson; Debra A. Bolick, MD; Varnell McDonald-Fletcher, PA-C; Ralph A. Walker, JD; and Christine M. Khandelwal, 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 License Committee reviewed five 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.

Eight 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: Jerri L. Patterson, NP, Chairperson; Varnell D. McDonald-Fletcher, PA-C; John W. Rusher, MD; and Shawn P. Parker, JD.

Old Business:

a. Anesthesiologist Assistants

Rule 21 NCAC 32W .0112 Identification Requirements. The Committee considered a proposed amendment to the rule, published in the NC Register in September 2018, regarding a change in the title of anesthesiologist assistants. (Appendix B)

Committee Recommendation: Approve rule.

Board Action: Accept Committee recommendation. Approve rule.

New Business:

b. Physician Assistants

2018 Physician Assistant (PA) Compliance Report. NCMB's Senior Investigator reported on the results of the Board's 2018 random physician assistant compliance review. Of the thirty reviews, nineteen were found to be in full compliance, nine had minor deficiencies, and two had significant deficiencies that were reported to the Board. At the conclusion of his remarks, he asked the Committee whether it wanted to continue the compliance review program.

Committee Recommendation: Continue the compliance review program on an annual basis.

Board Action: Accept Committee recommendation. Continue the compliance review program on an annual basis.

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: John W. Rusher, MD, Chairperson; Venkata R. Jonnalagadda, MD; Michaux R. Kilpatrick, MD; Timothy E. Lietz, MD; Jerri L. Patterson, NP; and Ralph A. Walker, 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 35 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: John W. Rusher, MD, Chairperson; Venkata R. Jonnalagadda, MD; Michaux R. Kilpatrick, MD; Timothy E. Lietz, MD; Jerri L. Patterson, NP; and Ralph A. Walker, 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 30 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: John W. Rusher, MD, Chairperson; Venkata R. Jonnalagadda, MD; Michaux R. Kilpatrick, MD; Timothy E. Lietz, MD; Jerri L. Patterson, NP; and Ralph A. Walker, 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.

Forty-five 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.

DISCIPLINARY (MEDICAL EXAMINER) COMMITTEE REPORT

Members present were: John W. Rusher, MD, Chairperson; Venkata R. Jonnalagadda, MD; Michaux R. Kilpatrick, MD; Timothy E. Lietz, MD; Jerri L. Patterson, NP; and Ralph A. Walker, 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.

Three Medical Examiner cases were reported. 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 (DEPARTMENT of HEALTH and HUMAN SERVICES) (DHHS) COMMITTEE REPORT

Members present were: John W. Rusher, MD, Chairperson; Venkata R. Jonnalagadda, MD; Michaux R. Kilpatrick, MD; Timothy E. Lietz, MD; Jerri L. Patterson, NP; and Ralph A. Walker, JD.

The following information is intended to memorialize the process for evaluating CSRS data from DHHS after the July 2017 rule change to prescribing criteria (NCAC 32Y.0101- more than 30 tablets of an opioid within 60 days of death). SSRC will revisit this topic for discussion.

SOPI Memo- Procedures for opening cases

This memo is intended to memorialize the process for evaluating CSRS data from DHHS after the July 2017 rule change to prescribing criteria (NCAC 32Y.0101-more than 30 tablets of an opioid within 60 days of death)

Report A-Top 2% (unchanged)

OMD reviews the licensee's CSRS and chooses 5 records for review

After two years, a licensee's case will follow path 1 or 2:

1. Prior AAI --> no investigation, close with letter to licensee
2. Prior private or public action, or a recent investigation involving prescribing --> open investigation/review CSRS/choose 5 records
3. If a licensee remains on Report A for four years (2020), there will be a re-investigation with a five-record review

Report B-Two or more opioid OD deaths

After a meeting with DHHS staff July 24, 2018, Board staff learned the new rule from July 2017 adding additional filters to the report (more than 30 tablets of opioid, within 60 days of death) were not applied to the reports presented to the Board. This has led to investigations of licensees who do not meet criteria for an investigation.

Going forward, OMD and Investigations recommend the following process:

Evaluate all Report B licensee cases to confirm that the overdose deaths meet the July 2017 rule change, specifically, that the patient receives more than 30 tablets of opioid within 60 days of the overdose from the licensee. The rule date will be adhered to, independent of the patient's date of death.

If a licensee prescribes more than 30 tablets of an opioid within 60 days of the patient's death on two or more cases, choose a total of five records for review.

If one or more overdose deaths does not meet current criteria, causing the licensee to no longer have the two or more deaths required for an investigation, the case is reported to file with an explanation for future reference. The case is NOT opened or investigated.

If the licensee has a current prescribing investigation or complaint and is reported through the DHHS but does not meet current criteria for an investigation, OMD will assess the full CSRS for concerning prescribing. Based on the data, OMD will recommend an investigation or close the case at the staff level.

"Concerning" CSRS examples:

high prescribing for the area of practice
multiple patients prescribed over 100 MME daily

multiple patients prescribed concurrent opioids and benzodiazepines current investigation for prescribing

Recommendation to SSRC**:** Accept as information.

Board Action: Accept Committee recommendation. Accept as Information.

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 zero 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.

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.

OUTREACH COMMITTEE

Members present were: Shawn P. Parker, JD, Chairperson; Christine M. Khandelwal, DO, Michaux R. Kilpatrick, MD; Jerri L. Patterson, NP.
Members absent were: Venkata R. Jonnalagadda, MD.

The Committee reviewed its mission statement and the Committee Chair gave a brief overview of his goals for the Committee during the upcoming year.

Old Business

a. Update on Presentations

1. Professional presentations

The Communications Director summarized professional outreach activities for the year. NCMB is on track to end 2018 with 41 professional outreach presentations, including talks to physician practices and physician professional groups, hospitals and health systems, residency programs, physician assistant training programs and stakeholder groups, including risk managers and credentialing/medical staff services professionals. The most popular topic was opioid prescribing. The Committee discussed opportunities to develop a few new slide presentations on topics of interest to further engage professional audiences.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

2. Consumer presentations

The Committee discussed community outreach activities for 2018. The Board is expected to end the year with about 22 presentations and other contacts with public audiences. NCMB staff have completed 15 presentations to community and local government groups. In addition, NCMB's Human Resources (HR) manager has discussed the Board at seven community events he has attended, in some cases participating as host or emcee, which has afforded the opportunity to say a few words about the Board. The Committee reviewed two new printed resources developed by the Communications Department to promote NCMB's speaker program. These cards will be passed out or provided in information packets given to participants at community events.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

b. Public survey results

The discussion for the public survey results was deferred to the full Board.

New Business

a. Physician Wellness Initiative Discussion

The Committee discussed how it might realize NCMB's desire to continue the conversation on system-drivers of burnout started at the recent Wellness Summit that

the Board helped plan. Overall, the Committee agreed that reaching non-physician administrators working in health systems should be a priority. The Committee discussed the merits of targeting executive-level stakeholders as well as ground-level clinicians and non-clinician staff. As a starting point, the Communications Department will develop a new wellness-themed slide presentation and update the existing wellness resource page on the Board's website. Committee members will discuss wellness-related opportunities with fellow Board Members and come to the next Outreach Committee meeting prepared to continue the discussion.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

DIVERSITY WORKGROUP

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

New Business

a. Welcome new Workgroup members

   The HR manager welcomed the new members to the group.

b. Discuss three core principles (Education, Communication, Compliance)

   The workgroup discussed the three core principles and purpose of the workgroup.

c. Update on Staffing

   The HR manager provided an update on the recruiting process and how it works. He reviewed the process of recruiting and hiring for the Quality of Care Case Paralegal position (September 2018)

d. 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 57 employees.

e. Training/Presentations

   The HR manager is tasked with bringing back options for training around Unintentional Bias and Diversity & Inclusion. This training would be for Board members and staff. The targeted time frame for training is May 2019

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

ADJOURNMENT

The Medical Board adjourned at 11:54 p.m. on Friday, November 16, 2018.

The next meeting of the Medical Board is scheduled for January 23 - 25, 2019.

Venkata R. Jonnalagadda, MD; Secretary/Treasurer

REDLINE OF PROPOSED POSITION STATEMENT:

Guidelines for Avoiding Misunderstandings During Patient Encounters and Physical Examinations

It is the position of the North Carolina Medical Board that respect, empathy, ~~proper care and sensitivity~~ and sensitivity to the vulnerability of patients are needed at all times during a patient encounter in order~~during physical examinations~~ to avoid misunderstandings that could lead to charges of boundary violation or sexual misconduct against licensees. ~~In order to prevent such misunderstandings, t~~The Board offers the following guidelines to assist licensees in reducing the possibility of such misunderstandings.

- Licensees should recognize that misunderstandings regarding boundaries may occur at any time during a patient encounter, but particularly during disclosure of private information by the patient about symptoms, prior personal experiences, or during the physical examination. The licensee should maintain a professional demeanor at all times. While some licensees have adopted a more informal approach to patient interactions, such as use of first names for both patients and the licensee, this may blur boundaries and result in later misunderstandings.

- Sensitivity to patient modesty and dignity must be maintained at all times~~should be considered by the licensee when undertaking a physical examination~~. The patient should be assured of adequate ~~auditory and visual~~ privacy and should never be asked to disrobe in the presence of the licensee. Examining rooms should be ~~safe, clean, and~~ well maintained~~,~~ and ~~should be~~ equipped with appropriate furniture and supplies for examination and treatment. Gowns, sheets, and/or other appropriate apparel should be made available to ~~protect~~ the patient ~~dignity and decrease embarrassment to the patient while a thorough and professional examination is conducted~~.

- ~~Whatever the gender of the patient~~Regardless of the patient's gender, a third party, usually a staff member, should be readily available at all times during a physical examination, and it is strongly advised that a third party be present when the licensee performs an examination of the breast~~(s)~~, genitalia, or rectum. It is the ~~physician's~~ licensee's responsibility to have a staff member available at any point during the examination. If no chaperone is available the patient should be clearly advised of what will occur during the examination and provide verbal informed consent for an unchaperoned examination.

- The licensee should individualize the approach to physical examinations so that each patient's sense of vulnerability, apprehension, fear, and embarrassment are diminished ~~as much as~~to the extent possible. An explanation of the necessity of a complete physical examination, the components of that examination, and the purpose of disrobing may be necessary in order to minimize the patient's ~~possible misunderstanding~~apprehension.

- The licensee and staff should exercise the same degree of professionalism and care when performing diagnostic procedures (e.g., electro–cardiograms, electromyograms, endoscopic procedures, and radiological studies, etc.), as well as during surgical procedures and postsurgical follow-up examinations when the patient is in varying stages of consciousness.

- Sexual impropriety by the licensee may include behavior, gestures, comments, or expressions that are seductive, sexually suggestive, disrespectful of patient privacy, or sexually demeaning to a patient, and may include, but are not limited to:

    - Neglecting to employ disrobing or draping practices that respect patient privacy or deliberately watching a patient dress or undress.
    - Subjecting a patient to an intimate examination in the presence of medical students or other persons without the patient's consent.
    - Examination or touching of genital mucosal areas without the use of gloves.
    - Unprofessional comments made at any time during the encounter about or to the patient, including making sexual comments about a patient's appearance, body, or clothing or offering demeaning observations about the patient or others.
    - Using a physician-patient encounter to solicit a date or romantic relationship.
    - Conversations or comments regarding the sexual problems, preferences, or fantasies of the licensee.
    - Performing an examination without clinical justification or without explaining to the patient the need for such examination.
    - Requesting details of the patient's sexual history or sexual preferences when not clinically indicated.

- The licensee should also be ~~on the~~ alert for suggestive or flirtatious behavior or mannerisms on the part of the patient and should not permit a compromising situation to develop.

Guidelines for Avoiding Misunderstandings During Patient Encounters and Physical Examinations

It is the position of the North Carolina Medical Board that respect, empathy, and sensitivity to the vulnerability of patients are needed at all times during a patient encounter in order to avoid misunderstandings that could lead to charges of boundary violation or sexual misconduct against licensees. The Board offers the following guidelines to assist licensees in reducing the possibility of such misunderstandings.

- Licensees should recognize that misunderstandings regarding boundaries may occur at any time during a patient encounter, but particularly during disclosure of private information by the patient about symptoms, prior personal experiences, or during the physical examination. The licensee should maintain a professional demeanor at all times. While some licensees have adopted a more informal approach to patient interactions, such as use of first names for both patients and the licensee, this may blur boundaries and result in later misunderstandings.

- Sensitivity to patient modesty and dignity must be maintained at all times. The patient should be assured of adequate privacy and should never be asked to disrobe in the presence of the licensee. Examining rooms should be well maintained and equipped with appropriate furniture and supplies for examination and treatment. Gowns, sheets, and/or other appropriate apparel should be made available to the patient.

- Regardless of the patient's gender, a third party, usually a staff member, should be readily available at all times during a physical examination, and it is strongly advised that a third party be present when the licensee performs an examination of the breasts, genitalia, or rectum. It is the licensee's responsibility to have a staff member available at any point during the examination. If no chaperone is available the patient should be clearly advised of what will occur during the examination and provide verbal informed consent for an unchaperoned examination.

- The licensee should individualize the approach to physical examinations so that each patient's sense of vulnerability, apprehension, fear, and embarrassment are diminished to the extent possible. An explanation of the necessity of a complete physical examination, the components of that examination, and the purpose of disrobing may be necessary in order to minimize the patient's apprehension.

- The licensee and staff should exercise the same degree of professionalism and care when performing diagnostic procedures (e.g., electrocardiograms, electromyograms, endoscopic procedures, and radiological studies, etc.), as well as during surgical procedures and postsurgical follow-up examinations when the patient is in varying stages of consciousness.
- Sexual impropriety by the licensee may include behavior, gestures, comments, or expressions that are seductive, sexually suggestive, disrespectful of patient privacy, or sexually demeaning to a patient, and may include, but are not limited to:

    - Neglecting to employ disrobing or draping practices that respect patient privacy or deliberately watching a patient dress or undress.
    - Subjecting a patient to an intimate examination in the presence of medical students or other persons without the patient's consent.
    - Examination or touching of genital mucosal areas without the use of gloves.
    - Unprofessional comments made at any time during the encounter about or to the patient, including making sexual comments about a patient's appearance, body, or clothing or offering demeaning observations about the patient or others.
    - Using a physician-patient encounter to solicit a date or romantic relationship.
    - Conversations or comments regarding the sexual problems, preferences, or fantasies of the licensee.
    - Performing an examination without clinical justification or without explaining to the patient the need for such examination.
    - Requesting details of the patient's sexual history or sexual preferences when not clinically indicated.

- The licensee should also be alert for suggestive or flirtatious behavior or mannerisms on the part of the patient and should not permit a compromising situation to develop.

21 NCAC 32W .0112 is proposed for amendment as follows:

21 NCAC 32W .0112 IDENTIFICATION REQUIREMENTS

An Anesthesiologist Assistant licensed under this Subchapter shall keep proof of current licensure and registration available for inspection at the primary place of practice and shall, when engaged in professional activities, wear a name tag identifying the licensee as an "Anesthesiologist Assistant," which may be abbreviated as "AA," or as ~~an "Anesthesiologist Assistant – Certified,"~~ a “Certified Anesthesiologist Assistant,” which may be abbreviated as ~~"AA-C."~~ “CAA.”

History Note: *Authority G.S. 90-18.5; 90-640;*
Temporary Adoption Eff. January 28, 2008;
Eff. April 1, 2008;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.
Amended Eff. January 1, 2019