



BOARD MEETING MINUTES

November 20 - 22, 2019

**1203 Front Street
Raleigh, North Carolina**

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held November 20 – 22, 2019.

The November 2019 meeting of the North Carolina Medical Board was held at 1203 Front Street, Raleigh, NC 27609. Bryant A Murphy, MD, President, called the meeting to order. Board members in attendance were: Bryant A. Murphy, MD, President; Venkata R. Jonnalagadda, MD, President-Elect; John W. Rusher, MD, Secretary/Treasurer; Ralph A. Walker, JD; Shawn P. Parker, JD; Varnell D. McDonald-Fletcher, PA-C; Michaux R. Kilpatrick, MD; Christine M. Khandelwal, DO; Jerri L. Patterson, NP; W. Howard Hall, MD; Joshua D. Malcolm, JD; Damian F. McHugh, MD; and Devdutta G. Sangvai, MD

PRESIDENTIAL REMARKS

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

INSTILLATION CEREMONY AND NEW OFFICER OATHS

Dr. Bryant A. Murphy presented Dr. Barbara E. Walker with a presidential resolution and gavel plaque for her service as President of the North Carolina Medical Board for 2018 - 2019.

Dr. Walker administered the President's Oath of Office to Dr. Murphy.

Dr. Murphy administered the President-Elect's Oath of Office to Dr. Venkata R. Jonnalagadda and Secretary/Treasurer's Oath of Office to Dr. John W. Rusher. He also administered the New Board Member Oath to W. Howard Hall, MD; Joshua D. Malcolm, JD; Damian F. McHugh, MD; and Devdutta G. Sangvai, MD.

PRESENTATIONS

Thom Mansfield, NCMB Chief Legal Officer, provided recusal training.

Brian Blankenship, NCMB Deputy General Counsel, and Mike Arnold, Policy Director, Office of the Secretary of State, provided interview training.

Marshall Tucker, NCMB Investigator, provided an active shooter training.

Deborah Aldridge, MSN, RN-BC; Senior Vice President, Blaze Advisors, gave a final report on the Board's recidivism study.

ANNOUNCEMENTS

Dr. Rusher gave an update on a meeting of the NC Medical Society Medical Team Task Force held November 20.

Dr. Jonnalagadda gave an update on the Tri-Regulator Symposium.

Dr. Jonnalagadda gave an update on the Federation of State Medical Boards (FSMB) Sexual Boundary Violations workgroup.

Mr. Parker gave an update on a recent FSMB Board of Directors meeting.

Dr. Haynes gave an update on a recent American Conference on Physician Wellness in Charlotte.

Dr. Murphy gave an update on the National Boards of Osteopathic Medical Examiners Visitation Day.

NORTH CAROLINA PHYSICIAN HEALTH PROGRAM REPORTS (NCPHP)

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

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

A motion passed to return to open session.

NCMB ATTORNEY'S REPORT

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

Mr. Brian L. Blankenship, Deputy General Counsel, and Mr. Thomas W. Mansfield, Chief Legal Officer, gave the Attorney's Report on Friday, July 19, 2019.

A motion passed to return to open session.

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

Executed Cases - Public Actions:

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

Bagley, Cathy Lorraine MD

Public Letter of Concern executed 09/24/2019

Bakotic, Bradley W. DO

Public Letter of Concern executed 11/04/2019

Ballance Jr., William Alton MD

Public Letter of Concern executed 10/08/2019

Brown, Michael Osborne MD

Voluntary Surrender of License executed 10/10/2019

De Young, Barry Robert MD

Consent Order executed 09/19/2019

Fuentes, Edwin Laserna DO

Notice of Charges and Allegations; Notice of Hearing; Scheduling Order executed 11/05/2019

Graves, Stephanie Holton PA

Relief of Consent Order Obligations executed 10/16/2019

Griffin, Gail Michelle MD

Consent Order executed 10/10/2019

Hummel, Joseph Jacob MD

Public Letter of Concern executed 10/24/2019

Kinstrey, Kristin Victoria PA

Consent Order executed 10/04/2019

Kumar, Sanjay MD
Notice of Felony Revocation executed 09/25/2019

Migdon, Steven PA
Consent Order executed 10/22/2019
Mogabgab, Edward Roddy MD
Relief of Consent Order Obligations executed 10/15/2019

Montague, Elisabeth MD
Non-Disciplinary Consent Order executed 09/09/2019

Munshi, Krishna Vivek MD
Reentry Agreement executed 10/11/2019

Nicke, Robert John MD
Findings of Fact, Conclusions of Law, and Order of Discipline executed 10/24/2019

Penrose, John Frederick MD
Relief of Consent Order Obligations executed 09/30/2019

Peters, Lenin Joseph MD
Public Letter of Concern executed 10/08/2019

Public Actions
Raines III, Lawrence Merial MD
Order to Continue and Amended Scheduling Order executed 10/09/2019

Russell, Anthony Otis MD
Relief of Consent Order Obligations executed 10/25/219

Schwarz, Dayna Patricia MD
Denial of Licensure executed 10/22/2019

Westbrook, Brent Ashley PA
Relief of Consent Order Obligations executed 10/15/2019

White, Anne Litton MD
Consent Order executed 10/17/2019

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

Information regarding pending outside litigation was presented by Mr. Mansfield and Mr. Marcus Jimison.

A motion was passed to return to open session.

That concluded the Attorney's report.

Legislative Update

On Friday, November 22, 2019, the Board's Legislative Liaisons, Mr. Thomas W. Mansfield, Chief Legal Officer and Ms. Evelyn Contre, Chief Communications Officer, provided a legislative update to the Board.

The Board accepted the report as information.

NCMB COMMITTEE REPORTS

Executive Committee Report

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

Financial Update

a. Year-to-Date Financials

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

Committee Recommendation: Accept the financial information as reported.

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

b. Investment Account

The Committee reviewed the investment statements for September and October 2019.

Committee Recommendation: Accept the investment statements as information.

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

c. Fifth Third Investment Account Report

The Board's investment advisor, Matt Wedding, Fifth Third Bank, gave the annual report regarding the Board's investment account.

Committee Recommendation: Accept the investment account annual report as information.

Board Action: Accept Committee recommendation. Accept the investment account annual report as information.

Old Business

a. Office Space Project Report

Jessica Bossiere, HH Architecture, and the NCMB Phase Three Office Space Project Team gave an update regarding the schematic design and construction budget for the Board's office building on Smoketree Court. Having completed the schematic design work, we are now in the design development phase.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. 1203 Front Street Update

Mr. Henderson reported the Board has entered into a purchase contract with Northside Midtown, LLC, to sell 1203 Front Street. The closing will occur within 15 days after the NCMB has vacated the building or November 1, 2020, whichever occurs first. If not vacated by November 1, the Board can lease the property through the end of February 2021.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

New Business

a. NC Review Panel Appointment

The NCMB Review Panel reviews candidates for all non-public positions on the Board and make recommendations to the Governor (at least two per open seat). The Review Panel consists of nine members including one public member of the Medical Board. The Board needs to appoint a public member to replace Mr. Wayne Holloman who is no longer eligible to serve.

Committee Recommendation: Appoint Ralph A. Walker, LLB, to the NCMB Review Panel.

Board Action: Accept Committee recommendation. Appoint Ralph A. Walker, LLB, to the NCMB Review Panel.

b. Delegation of Authority – Predetermination Petition

Due to a recent change in the law, individuals with a criminal history may submit a “predetermination petition” asking a board (including the Medical Board) “whether the individual’s criminal history will likely disqualify the individual from obtaining a license.”

The law requires that each board “delegate authority for such a predetermination to its Executive Director or their equivalent, or a committee of the board, so that the predeterminations can be made in a timely manner.”

Committee Recommendation: Authorize the CEO to make predetermination decisions on behalf of the Board.

Board Action: Accept Committee recommendation. Authorize the CEO to make predetermination decisions on behalf of the Board.

Policy Committee Report

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

Old Business:

a. Physician Scope of Practice (Proposed Title: Physician Practice Drift) (Appendix A)

The Committee reviewed the comments received and engaged in a discussion regarding the development of the title of the position statement and whether "Physician Practice Drift" was an appropriate title. The Committee concluded that the revised position statement, including the new title, should be accepted as written.

Committee Recommendation: Accept revised position statement.

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

b. Child Maltreatment (Appendix B)

The Committee reviewed the comments received and agreed that the revised position statement should be accepted as written.

Committee Recommendation: Accept revised position statement.

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

c. Licensee Use of Innovative or New Treatment

Staff provided an overview of the revisions, which incorporated many of the suggestions and comments previously received from licensees and stakeholders. Specifically, the position statement was revised to be broadly inclusive and aimed at promoting the principals of licensee responsibility, instead of providing specifics. Staff recommended that the Committee seek further feedback from appropriate stakeholders and the Committee agreed.

Committee Recommendation: Accept revisions made to the November 2019 version of the draft position statement and provide the revised draft position statement to appropriate stakeholders for additional feedback. Bring back comments and revisions for review at the January 2020 Board meeting.

Board Action: Accept Committee recommendation. Accept revisions made to the November 2019 version of the draft position statement and provide the revised draft position statement to appropriate stakeholders for additional feedback. Bring back comments and revisions for review at the January 2020 Board meeting.

d. Position Statements Review Workgroup

The Committee Chair provided an overview of the formation of the workgroup and suggested goals for the Committee. Ultimately, the workgroup will work to remove position statements that are no longer relevant, eliminate redundancy, and create consistency in the remaining position statements. The Committee agreed that instead of a four-year review schedule that it would be more efficient to address position statements based on current concerns of the Board and staff. The Committee agreed it would target position statements by subject area, instead of reviewing the position statements chronologically on a four-year review schedule.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

New Business:

a. HIV/HBV Infected Health Care Workers

The Committee reviewed the current position statement, which is comprised of rules 10A NCAC 41A .0206 (Infection Prevention - Health Care Settings) and 10A NCAC 41A .0207 HIV and Hepatitis B infected Health Care Workers of the North Carolina Department of Health and Human Services. The Committee agreed that the rules speak for themselves and discussed whether to keep the position statement, remove the position statement, or remove the position statement, but also publish an FAQ on the Board's website to provide a link and refer licensees to the rules. The Committee agreed the later was the appropriate recommendation.

Committee Recommendation: Remove position statement and direct staff to draft and publish an FAQ with a link and referral to the relevant North Carolina Department of Health and Human Services rules.

Board Action: Accept Committee recommendation. Remove position statement and direct staff to draft and publish an FAQ with a link and referral to the relevant North Carolina Department of Health and Human Services rules.

Additional Sections:

a. Position Statement Review Tracking Chart

Committee Recommendation: Bring "Writing of Prescriptions" and "Laser Surgery" as new business at the January 2020 Board meeting.

Board Action: Accept Committee recommendation. Bring “Writing of Prescriptions” and “Laser Surgery” as new business at the January 2020 Board meeting.

Licensing Committee Report

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

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

The License Committee reviewed four 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: Varnell D. McDonald-Fletcher, PA-C, Chairperson; John W. Rusher, M.D.; Michaux R. Kilpatrick, MD; W. Howard Hall, MD; Damian F. McHugh, MD; and Jerri L. Patterson, NP

New Business:

- a. 2019 Physician Assistant (“PA”) Compliance Audit Report. The Committee received a report of the results of the 2019 Physician Assistants Compliance Audit.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accepted as information.

- b. Physician Assistant Advisory Meeting Clarification. There will be an open forum meeting with North Carolina PAs twice a year. The format will be informal, and staff will work with the North Carolina Association of Physician Assistants to provide outreach about the meeting. In addition, time will be set aside at each APP/AHC meeting for the Committee to take comments from physician assistants and the public.

Committee Recommendation: Accept as information.

Board Action: Accepted as information.

- c. PA Badges/Titles. The Committee discussed the issue of titles and identification of PAs with doctoral degrees. The staff will continue to study the issue, including discussing the issue at the Nurse Practitioner Joint Subcommittee regarding the North Carolina Board of Nursing’s position as to its approach with nurse practitioners with doctoral degrees.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

- d. Rule 21 NCAC 32V .0103 Qualifications for License. A proposed amendment to specify the process for reactivation and reinstatement of inactive perfusion licenses.

PAC Recommendation: Approve rule.

Committee Recommendation: Approve rule.

Board Action: Accept committee recommendation. Approve rule.

- e. Rule 21 NCAC 32V .0111 Practice During a Disaster. A proposed amendment to streamline the process of allowing out-of-state perfusionists to practice in North Carolina during a declared disaster.

PAC Recommendation: Approve rule.

Committee Recommendation: Approve rule.

Board Action: Accept committee recommendation. Approve rule.

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

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

A motion passed to return to open session.

Disciplinary (Complaints) Committee Report

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

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

The Disciplinary (Complaints) Committee reviewed 19 complaint cases. A written report was presented for the Board’s review. The Board adopted the Committee’s recommendation to approve the written report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

Disciplinary (Malpractice) Committee Report

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

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

The Disciplinary (Malpractice) Committee reviewed 47 cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Disciplinary (Investigative) Committee Report

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

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

The Disciplinary (Investigative) Committee reviewed 60 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 (Department of Health and Human Services) Committee Report

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

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

Two 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.

New Business

a. Academic Detailing

Mountain Area Health Education Center (MAHEC) has offered to provide one-on-one "academic detailing" coaching to opioid prescribers of concern identified by the Board.

Committee recommendation: Refer appropriate prescribers of concern to trained MAHEC personnel for opioid prescribing academic detailing.

Board action: Accept Committee recommendation. Refer appropriate prescribers of concern to trained MAHEC personnel for opioid prescribing academic detailing.

b. CSRS Reporting Criteria – Proposed Report D (Appendix C)

Staff recommends the Board amend 21 NCAC 32Y .0101 "REPORTING CRITERIA" to permit DHHS to report prescriptions that meet the following criteria: six months without a prescription for opioids, 30 days or more of medication, and greater than or equal to 100 morphine milligram equivalents (MMEs).

Committee recommendation: Confer with stakeholders. If no objection, proceed with the rule-making process.

Board action: Accept Committee recommendation. Confer with stakeholders. If no objection, proceed with the rule-making process.

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.

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

A motion passed to return to open session.

Outreach Committee Report

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

Welcome and introduction

c. Mission and committee description

The committee Chairperson reviewed the committee's mission statement and role as liaison to NCMB's Communications Department.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

Old Business

a. Update on presentations

- 1) Professional presentations
- 2) Consumer presentations

The Communications Director gave an overview of NCMB's approach to professional outreach. NCMB's two most frequently presented topics are its general Board presentation ("Medical Board 101") and its opioid prescribing overview. The Committee discussed a recent presentation focused on professional burnout to medical staff at a

NC hospital and the potential challenges in addressing topics that may veer outside of the Board's core responsibilities are areas of authority. Committee members noted that NCPHP regularly presents on burnout and may be a resource we can refer groups interested in the topic to in the future. The Chief Communications Officer reviewed efforts to develop NCMB's public outreach program. NCMB has invested in numerous logo-imprinted items and promotional materials, as well as tablet computers to demonstrate NCMB's website, to give the Board a more engaging presence at public health fairs and other events.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

b. President's Imitative Recap

The Chief Communications Officer gave a recap of the mock Board Disciplinary Committee course presented to first year medical students at Campbell University's School of Osteopathic Medicine (CUSOM) on Nov. 1. Staff in multiple departments, including Communications, Legal and the Office of the Medical Director worked to prepare the curriculum, which was presented by Immediate Past Board President Barbara Walker, DO. NCMB will return to CUSOM in summer 2020 to conduct a mock Board Hearing for rising third year medical students. NCMB expects to continue presenting both courses at CUSOM and hopes to offer the program at other medical schools and PA programs in the state.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

New Business

a. Other outreach activities

- 1) Social media campaigns
- 2) Closed captioning on website videos
- 3) Board Book tutorial

The Chief Communications Officer and Communications Director reviewed recent Communications projects, including a recent social media campaign promoting safe medication storage and disposal, tied to the most recent DEA National Drug Take Back Day. This campaign achieved NCMB's best results yet in terms of audience reach and link clicks. The Communications Department is planning a future campaign promoting

the Look up a doctor or PA tool on the Board's website. The department has added closed captioning to its online Complaint Tutorial to make this resource more accessible to the deaf and hard of hearing. The captioned video will be uploaded to the website soon. Finally, the department is working on a video tutorial that will help Board Members use the software needed to access and annotate Board Meeting and Hearing materials. This video will be available to Board Members in January 2020.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

b. Discussion of 2019-2020 Committee priorities

The Committee Chairperson discussed her hope for the Outreach Committee to focus on suicide prevention in healthcare. Committee members and staff present agreed that this is an important and timely topic. The Committee Chairperson expressed continued interest in developing an NCMB podcast. Staff expect to complete research and planning by the end of March 2020. The Committee also discussed the possibility of asking recent former Board Members to represent NCMB at select professional and public outreach to increase the number of potential speakers available for outreach events.

Committee recommendation: Discuss priorities among the Full Board; No action required.

Board action: No action required.

ADJOURNMENT

The Medical Board adjourned at 12:17 p.m. on Friday, November 22, 2019.

The next meeting of the Medical Board is scheduled for January 22 - 24, 2020.



John W. Rusher, MD; Secretary/Treasurer

Physician Practice Drift

When physicians are granted a license by the Board, they are generally given the privilege of practicing the full breadth of medicine and are not limited to a particular specialty. This general medical license allows physicians a certain degree of discretion to expand or shift their practice areas. The Board recognizes that medicine is a dynamic field that, along with individual practices, continues to evolve. Economic pressures, business opportunities, lifestyle considerations, and access to care are all reasons that physicians move into new areas of practice.

When considering changes to one's area of practice, physicians have a professional and ethical duty to put their patients' interests first and only offer medical care that the physician is competent to provide. Patient harm can occur when physicians practice outside of areas in which they have been adequately trained.

Physicians intending to expand their practice to a new area should ensure that they have acquired the appropriate level of education and training. This may involve seeking additional training by attending appropriate educational programs. Physicians should be prepared to provide information about their qualifications and any additional training that has prepared them to provide medical care outside the physician's original area of practice. It may also be prudent for physicians to confirm that their liability insurance provides coverage for the procedures they intend to perform.

It is the Board's position that all physicians, irrespective of their area of training, will be held to the standard of acceptable and prevailing medical practice in the specialty area that the care was rendered as set forth in N.C. Gen. Stat. § 90-14(a)(6).

The Board also refers its licensees to the Board's Position Statement entitled "Physician Supervision of Other Licensed Health Care Practitioners" and Board rules 21 NCAC 32S .0213 (addressing physician supervision of physician assistants) and 21 NCAC 32M .0102 (addressing the scope of practice of nurse practitioner).

Child Maltreatment

It is the position of the North Carolina Medical Board that child maltreatment (abuse and neglect) presents a significant risk to the health and well-being of North Carolinians. The Board's licensees have a legal responsibility to report as soon as practicable "cases involving recurrent illness or serious physical injury to any child under the age of 18 years where the illness or injury appears, in the physician's professional judgment, to be the result of non-accidental trauma." N.C. Gen. Stat. § 90-21.20(c1).* It should also be noted that the statute provides civil and criminal immunity for reports made in good faith by physicians and other related personnel or institutions.

This legal and ethical obligation to report requires a licensee to recognize the signs, symptoms, and etiology of child maltreatment. Licensees are also encouraged to learn how to refer children for expert medical evaluations of possible maltreatment.

The following links provide detailed information on the state's reporting requirements and web-based training on recognition of child maltreatment:

https://www.sog.unc.edu/sites/www.sog.unc.edu/files/full_text_books/2016-11-01%202006087%20Abuse_Mason%20TEXT%20with%20supplement_0.pdf

<http://www.preventchildabusenc.org/services/trainings-and-professional-development/rrcourse>

*This obligation specific to physicians is in addition to the legal requirement that any person or institution in North Carolina "who has cause to suspect that any juvenile is abused, neglected, or dependent, as defined by N.C. Gen. Stat. § 7B-101, or has died as the result of maltreatment, shall report the case of that juvenile to the director of the department of social services in the county where the juvenile resides or is found." N.C. Gen. Stat. § 7B-301(a). This statute also provides criminal penalties for "knowingly or wantonly failing to make a report, or preventing someone else from making a report" when required by law.

Appendix C

21 NCAC 32Y .0101 REPORTING CRITERIA

(a) The Department of Health and Human Services ("Department") may report to the North Carolina Medical Board ("Board") information regarding the prescribing practices of those physicians and physician assistants ("prescribers") whose prescribing:

- (1) falls within the top two percent of those prescribing 100 morphine milligrams equivalents ("MME") per patient per day; or
- (2) falls within the top two percent of those prescribing 100 MME's per patient per day in combination with any benzodiazepine and who are within the top one percent of all controlled substance prescribers by volume.

(b) In addition, the Department may report to the Board information regarding prescribers who have had two or more patient deaths in the preceding twelve months due to opioid poisoning where the prescribers authorized more than 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

(c) In addition, the Department may report to the Board information regarding prescribers who meet three or more of the following criteria, if there are a minimum of five patients for each criterion:

- (1) At least 25 percent of the prescriber's patients receiving opioids reside 100 miles or greater from the prescriber's practice location;
- (2) The prescriber had more than 25 percent of patients receiving the same opioids and benzodiazepine combination;
- (3) The prescriber had 75 percent of patients receiving opioids self-pay for the prescriptions;
- (4) The prescriber had 90 percent or more of patients in a three-month period that received an opioid prescription that overlapped with another opioid prescription for at least one week;
- (5) More than 50 percent of the prescriber's patients received opioid doses of 100 MME or greater per day excluding office based treatment medications; and
- (6) The prescriber had at least 25 percent of patients who used three or more pharmacies within a three- month period to obtain opioids regardless of the prescriber.

(d) In addition, the Department may report to the Board information regarding prescribers who authorize a prescription for opioids to at least one patient where the prescribing meets the following criteria:

- (1) The prescription is for 100 MME or greater;
- (2) The prescription is for 30 or more days;
- (3) The patient has not received a prescription for an opioid from any prescriber in the six months prior to the prescription in question as demonstrated in the North Carolina Controlled Substances Reporting System at the time the prescription was authorized and as reported by the patient;

(e) The Department may submit these reports to the Board upon request and may include the information described in G.S. 90-113.73(b).

~~(e)~~ (f) The reports and communications between the Department and the Board shall remain confidential pursuant to G.S. 90-16 and G.S. 90-113.74.