



BOARD MEETING MINUTES

September 21-23, 2022

**3127 Smoketree Court
Raleigh, North Carolina**

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held September 21-23, 2022.

The September 21-23, 2022 meeting of the North Carolina Medical Board was held at 3127 Smoketree Court, Raleigh, NC 27604. John W. Rusher, MD, JD; President, called the meeting to order. Board members in attendance were: Michaux R. Kilpatrick, MD; President-Elect; Christine M. Khandelwal, DO; Secretary/Treasurer; Shawn P. Parker, JD; W. Howard Hall, MD; Joshua D. Malcolm, JD; Damian F. McHugh, MD; Devdutta G. Sangvai, MD, Mr. William M. Brawley; Anuradha Rao-Patel, MD; Sharona Y. Johnson, PhD, FNP-BC; Miguel A. Pineiro, PA-C; and Melinda H. Privette, MD, JD.

PRESIDENTIAL REMARKS

Dr. John W. Rusher reminded the Board members of their duty to avoid conflicts of interest with respect to any matters coming before the Board as required by the State Government Ethics Act. Reported conflicts were included within individual committee reports.

ANNOUNCEMENTS and UPDATES

Dr. Rusher recognized new staff as they were introduced by their respective manager.

PRESENTATION(S)

Mr. Brian L. Blankenship, Deputy General Counsel introduced Rape, Abuse & Incest National Network, the nation's largest anti-sexual violence organization (RAINN), who provided Sexual Misconduct training to the Board members.

NORTH CAROLINA PHYSICIAN HEALTH PROGRAM REPORTS (NCPHP)

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

Dr. Jordan gave the PHP Compliance Committee report. The specifics of this report are not included because the information contained in the report is confidential and non-public.

A motion passed to return to open session.

NCMB ATTORNEY'S REPORT

Mr. Brian L. Blankenship, Deputy General Counsel and Mr. Thomas W. Mansfield, Chief Legal Officer, gave the Attorney's Report on Friday, September 23rd, 2022.

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

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General Statutes and not considered public records within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney/client privilege.

Mr. Mansfield provided information and legal advice within the attorney-client privilege regarding two outside litigation matters. Mr. Blankenship provided information and legal advice within the attorney-client privilege regarding work performed by the Board's Legal Department since the last Attorney's Report was presented.

A motion was passed to return to open session.

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

That concluded the Attorney's Report.

Legislative Update

On Friday, September 23, 2022, the Board's Legislative Liaison, Mr. Thomas W. Mansfield, and Board Attorney Elizabeth Meredith provided a legislative update to the Board.

The Board accepted the report as information

NCMB COMMITTEE REPORTS

Executive Committee Report

Members present via video/teleconference were: John W. Rusher, MD, JD Chairperson; Michaux R. Kilpatrick, MD, PhD; Christine M. Khandelwal, DO; W. Howard Hall, MD; and Devdutta G. Sangvai, MD, MBA

Financial Update

a. Year-To-Date Financials

The Committee reviewed the following financial reports through July 31, 2022: 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 July and August.

Committee Recommendation: Accept the investment statements as reported.

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

c. Proposed FY2023 Budget

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

Committee Recommendation: Approve the proposed budget for fiscal year 2023.

Board Action: Accept Committee recommendation. Approve the proposed budget for fiscal year 2023

Old Business:

a. Petition for Rule Making

At its March 2022 meeting, the Board approved for filing with the Rules Review Commission proposed rule 21 NCAC 32A .0115. See, Attachment A. This action was based on N.C. Gen. Stat. Section 150B-20(a) which requires agencies to adopt a rule describing how a person may submit a rule-making petition and the procedures the Board will use to consider a petition.

A public hearing was held on August 30, 2022. The deadline for submitting written comments was also August 30, 2022. No one attended the public hearing, and no written comments were received.

Committee Recommendation: Approve the rule as written and request adoption by the Rules Review Commission.

Board Action: Accept Committee recommendation. Approve the rule as written and request adoption by the Rules Review Commission.

New Business:

a. NCMB Appointments

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

- Dr. Sangvai (eligible for reappointment; seeking reappointment)
- Dr. Hall (eligible for reappointment; seeking reappointment)
- Dr. McHugh (not eligible for reappointment)

The Review Panel met on August 27 to conduct interviews, discuss the candidates, and decide whom to nominate to the Governor.

By letter dated September 2, 2022, the Review Panel strongly recommended that the Governor reappoint Drs. Hall and Sangvai. For Dr. McHugh's seat, the Review Panel recommended Anthony Plunkett, MD, David Mayer, MD and Robert Rich, Jr., MD.

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

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

Committee Recommendation: Accept as Information.

Board Action: Accept Committee recommendation. Accept as information.

b. CEO Performance Review

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

As per Article V, Section 2 of the NCMB Bylaws, the Executive Committee retired to conduct the CEO's annual performance review.

A motion passed to return to open session.

Policy Committee Report

Members present were: Mr. William M. Brawley; Chairperson; Michaux R. Kilpatrick, MD, PhD; Joshua Malcolm, JD; Miguel A. Pineiro, PA-C. and Melinda H. Privette, MD, JD.

Old Business:

a. 9.1.3. Licensee Employment

The Committee discussed the additional changes made by staff and Committee members. The proposed revisions were reviewed favorably. The only additional revisions made during the Committee meeting were to footnote 2, which have been incorporated into the attached clean and redline versions of the proposed position statement. All other proposed changes were accepted by the Committee without further revision.

Committee recommendation: Accept all revisions to the proposed position statement. Submit the proposed position statement for review and comment by licensees and stakeholders and bring back at the November 2022 Board meeting.

Board Action: Accept Committee recommendation. Accept all revisions to the proposed position statement. Submit the proposed position statement for review and comment by licensees and stakeholders and bring back at the November 2022 Board meeting.

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New Business:

a. 5.1.4. Telemedicine

The Committee discussed whether the current Telemedicine position statement should be revised considering the rapidly evolving delivery models and technology available to licensees and the public. The Committee agreed that the current position statement should be reviewed and possibly revised by the 2022-2023 Committee members to strengthen and reinforce the current guidelines provided in the position statement and to provide additional guidance to licensees regarding the Board's expectations as it relates to telemedicine. Future Committee members were directed to use the current position statement as a starting point and may refer to the Federation of State Medical Board's "The Appropriate Use of Telemedicine Technologies in the Practice of Medicine" to assist in expanding on our current position statement.

Committee recommendation: Staff to circulate word versions of the current Telemedicine position statement and the Federation of State Medical Board's "The Appropriate Use of Telemedicine Technologies in the Practice of Medicine" (April 2022) to the 2022-2023 Committee members. Committee members will then make suggested changes and comments and staff will compile the changes into a revised position statement showing the suggested changes and comments to be discussed at a later Board meeting.

Board Action: Accept Committee recommendation. Staff to circulate word versions of the current Telemedicine position statement and the Federation of State Medical Board's "The Appropriate Use of Telemedicine Technologies in the Practice of Medicine" (April 2022) to the 2022-2023 Committee members. Committee members will then make suggested changes and comments and staff will compile the changes into a revised position statement showing the suggested changes and comments to be discussed at a later Board meeting.

Licensing Committee Report

Members present were: Anuradha Rao-Patel, MD, Chairperson; Damian McHugh, MD, Shawn Parker, JD, Miguel Pineiro, PA-C. Absent were: Joshua Malcolm, JD.

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The License Committee reviewed seven 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.

Four 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.

Disciplinary (Malpractice) Committee Report

Members present were: Devdutta G. Sangvai, Chairperson; W. Howard Hall, MD; (Vice-Chair) Sharona Y. Johnson, FNP-BC; Christine M. Khandelwal, DO; Melinda H. Privette, MD, JD and Anuradha Rao-Patel, MD. Absent were: Joshua D. Malcolm, 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 20 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: Devdutta G. Sangvai, Chairperson; W. Howard Hall, MD; (Vice-Chair) Sharona Y. Johnson, FNP-BC; Christine M. Khandelwal, DO; Melinda H. Privette, MD, JD and Anuradha Rao-Patel, MD. Absent were: Joshua D. Malcolm, JD

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

The Disciplinary (Investigative) Committee reviewed 41 investigative cases. A written report was presented for the Board's review. The Board adopted the recommendations and approved the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Disciplinary (Complaints) Committee Report

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Members present were: Devdutta G. Sangvai, Chairperson; W. Howard Hall, MD; (Vice-Chair) Sharona Y. Johnson, FNP-BC; Christine M. Khandelwal, DO; Melinda H. Privette, MD, JD and Anuradha Rao-Patel, MD. Members absent were, Joshua D. Malcolm, 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 40 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 (Department of Health and Human Services) (DHHS) Committee Report

Members present were: Devdutta G. Sangvai, Chairperson; W. Howard Hall, MD; (Vice-Chair) Sharona Y. Johnson, FNP-BC; Christine M. Khandelwal, DO; Melinda H. Privette, MD, JD and Anuradha Rao-Patel, MD. Members absent were, Joshua D. Malcolm, JD.

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

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

A motion passed to return to open session.

Disciplinary (Compliance) Committee Report

Members present were: Devdutta G. Sangvai, Chairperson; W. Howard Hall, MD; (Vice-Chair) Sharona Y. Johnson, FNP-BC; Christine M. Khandelwal, DO; Melinda H. Privette, MD, JD and Anuradha Rao-Patel, MD. Absent were: Joshua D. Malcolm, JD.

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

The Disciplinary (Compliance) Committee reviewed nine investigative cases. A written report was presented for the Board's review. The Board adopted the recommendations and approved the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

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.

Ten 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.

Advanced Practice Providers and Allied Health Committee Report

Members present were: Acting Chair, Shawn P. Parker, JD; Sharona Y. Johnson, PhD, FNP-BC; Miguel A. Pineiro, PA-C. Absent was Christine M. Khandelwal, DO.

Old Business

- a. Proposed rule adoption regarding physician supervision of certified nurse midwives. 21 NCAC 32B .1003.

Committee Recommendation: Refer to full Board

Board Action: Accept proposed rule as written.

New Business

- a. Perfusionist Advisory Committee applicant interviews.

- Julie Walker, LP – virtual interview
- Matthew Wilder, LP – virtual interview

Committee Recommendation: Appoint Julie Walker, LP to the Perfusionist Advisory Committee.

Board Action: Accept Committee recommendation. Appoint Julie Walker, LP to the Perfusionist Advisory Committee.

- b. Proposed repeal of Covid-19 drug preservation rules. 21 NCAC 32B .1708

Committee Recommendation: Accept repeal of rule as written.

Board Action: Accept recommendation. Accepted repeal of rule as written.

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.

JSC Final Recommendation Grid, March 2022 and May 2022

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accepted as information.

Diversity and Inclusion Workgroup

Old Business

- a. Using “Results Based Accountability” (RBA) and “Scorecard”

In September 2021, the Board voted to focus on the following three Healthy NC 2030 indicators: Drug Overdose Deaths (Indicator #10), Tobacco Use (Indicator #11), and Primary Care Workforce (Indicator #17). At the January 2022 Board meeting, the workgroup agreed to becoming a Healthy NC 2030 Partner. Healthy NC 2030 Partners are encouraged but not required to use results-based accountability (RBA) and Scorecard. Staff attended RBA and Scorecard training and provided information to the workgroup at the May Board meeting. Essentially RBA is a method of developing goals and monitoring the progress of any projects implemented to achieve those goals. Scorecard is the system used to publish the goals and track any progress. The use of RBA and Scorecard serves as a roadmap for projects and serve as transparency to the Division of Public Health and others about what works to achieve the Healthy 2030 goals.

Staff discussed with Kathy Dail, NC Division of Public Health and Will Broughton, Foundation for Health Leadership and Innovation, the option of applying RBA incrementally and using Scorecard for a “trial period” to determine if it is the correct fit.

Workgroup Recommendation: Apply RBA to one health indicator, specifically drug overdose deaths, and engage in a trial period use of Scorecard.

Board Action: Accept Workgroup recommendation. Apply RBA to one health indicator, specifically drug overdose deaths, and engage in a trial period use of Scorecard.

- b. Recap of Workgroup Accomplishments to Date

As this is the last meeting of the Workgroup for this fiscal year, staff provided a recap of Workgroup accomplishments to date; specifically, conducting a review of the Board's processes to identify the potential for unconscious bias in the decision-making process, encouraging licensees to attain cultural competency CME, conducting annual DE&I training in May, monitoring the FSMB's Workgroup on Diversity, Equity, and Inclusion in Medical Regulation, participating in the Healthy NC 2030 program, and supporting changes to the Board's holiday schedule to reflect the organization's commitment to racial equity and religious diversity in the workplace.

Workgroup Recommendation: Accept as information.

Board Action: Accept Workgroup recommendation. Accept as information.

New Business

a. Possible Future Projects

The Workgroup discussed future initiatives including DE&I training in May 2023, continued work on the three Healthy NC 2030 indicators described above, and implementation of appropriate recommendations from the FSMB Workgroup.

Workgroup Recommendation: Accept as Information.

Board Action: Accept Workgroup recommendation. Accept as information.

Outreach Committee Report

Members present were: Damian F. McHugh, MD, Chairperson; W. Howard, MD; Sharona Y. Johnson, PhD, FNP-BC; Anuradha Rao-Patel, MD. Member absent: William M. Brawley

Old Business

a. Update on presentations

- i. Professional and public presentations
- ii. Regulatory Immersion Series events

The Communications Director gave a brief overview of public and professional outreach activities. Public outreach opportunities are picking up and NCMB has booked events into the early part of 2023. Speaking engagements before professional audiences are steady. The Committee Chair and the Communications Director recently collaborated on a revised and streamlined presentation on NCMB's stance on clinician wellness and burnout. The Committee Chair presented the talk earlier this month. Some of the content may be added to the general "MedBoard 101" talk to proactively communicate the Board's ongoing interest in supporting clinician wellness. Finally, the Communications Director reported that NCMB has scheduled talks with two new PA programs and is in the early stages of talks with two NC medical schools about incorporating NCMB's mock disciplinary course, the Regulatory Immersion Series or RIMS, into their educational programs.

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Presenting at all four of these programs would help NCMB achieve its goal of presenting RIMS at every PA program and every medical school in the state:

Committee recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. Summary of the work and accomplishments of the Wellness and Burnout Workgroup

The Committee Chair summarized the work and accomplishments of the Wellness and Burnout Workgroup (WBW), which began meeting as part of the Outreach Committee effective November 1, 2021, over the past 24 months. Among them: Completing a side-by-side comparison of FSMB wellness recommendations with NCMB policies to ensure that the Board is taking every reasonable step to support clinician wellbeing; reviewing and revising NCMB's online wellness resources page, creating a public wellness statement to clearly state the Board's position on clinician health and wellbeing, and coordinating a series of presentations by the state's major health systems to learn what approaches are in play to address clinician burnout and encourage wellness in the clinician workforce in North Carolina. In addition, the WBW initiated conversation with the NC Professionals Health Program to identify opportunities to collaborate on wellness initiatives and developed and implemented a comprehensive plan to communicate with licensees regarding burnout and wellness. WBW has concluded its formal work, but NCMB will continue to be alert to opportunities to positively influence clinician wellness.

Committee recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

c. Status report of the child maltreatment education and training initiative

The Board President and the Chief Medical Officer, both pediatricians, shared the results of their recent review of education and training available to licensees on the topic of recognizing and reporting child maltreatment. It is their view that the supply of such resources is robust and that there is no need for NCMB to develop original content on the topic. Instead, they recommend NCMB address the perceived need to improve licensees' ability to recognize and report child maltreatment by regularly communicating with licensees on the topic and directing attention to applicable laws and rules, as well as helpful education and training opportunities.

Committee recommendation: Direct the Communications Department to work with Dr. Rusher and Dr. Burke-Haynes to develop an annual communication plan to raise awareness of available resources as well as the issues pertaining to reporting child abuse and neglect during Child Abuse Prevention month in April.

Board Action: Accept Committee recommendation. Direct the Communications Department to work with Dr. Rusher and Dr. Burke-Haynes to develop an annual communication plan to raise awareness of available resources as well as the issues pertaining to reporting child abuse and neglect during Child Abuse Prevention month in April.

New Business

a. Misc. Other Outreach Activities

i. Update on recent activities of the Communications Department

The Chief Communications and Administrative Officer and the Communications Director gave an update on current and recent work by the Communications Department. The department is working with a outside vendor to develop a promotional video to raise awareness of NCMB and its public protection mandate. The department has also recently completed two successful social media campaigns – one promoting public awareness of resources NCMB developed on professional sexual misconduct and what to expect during a physical examination, and one highlighting the impact of physician suicide in observance of National Physician Suicide Awareness Day on Sept. 17.

Committee recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. NCMB participation with the NC Consortium on Physician Resilience & Retention

Committee Member Howard Hall, MD, gave a brief report on his attendance at a meeting of the recently reconvened NC Consortium on Physician Resilience & Retention, a group of stakeholders committed to understanding and addressing systemic drivers of professional burnout. Dr. Hall indicated that there was a good mix of organizations and perspectives represented among the attendees and said he is pleased and proud for NCMB to continue as an active participant with the group.

Committee recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

ADJOURNMENT

The Medical Board adjourned at 1:12 p.m. on Friday, July 22, 2022

The next meeting of the Medical Board is scheduled for September 21-23, 2022.



Christine M. Khandelwal, DO, Secretary/Treasurer