MINUTES

January 18 – 20, 2017

1203 Front Street
Raleigh, North Carolina

General Session Minutes of the North Carolina Medical Board Meeting held January 18-20, 2017.

The January 2017 meeting of the North Carolina Medical Board was held at 1203 Front Street, Raleigh, NC 27609. Eleanor E. Greene, MD, President, called the meeting to order. Board members in attendance were: Timothy E. Lietz, MD, President-Elect; Barbara E. Walker, DO, Secretary/Treasurer; Cheryl L. Walker-McGill, MD, Past-President; Mr. Shawn P. Parker; Mr. A. Wayne Holloman; Bryant A. Murphy, MD; Debra A. Bolick, MD; Judge Ralph A. Walker; Venkata R. Jonnalagadda, MD; and Ms. Jerri L. Patterson, NP.
Absent: Pascal O. Udekwu, MD, Immediate Past-President

Presidential Remarks

Dr. Greene 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. No conflicts were reported.

Minutes Approval

Motion: A motion passed to approve the November 16 - 18, 2016 Board Minutes and December 15 - 16, 2016 Hearing Minutes.

Announcements

Dr. Greene announced that Dr. Bryant Murphy has accepted the invitation to participate as a member of the State Board Advisory Panel to the United States Medical Licensing Examination (USMLE).

North Carolina Physician Health Program Reports (NCPHP)

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

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

A motion passed to return to open session.

Dr. Jordan also presented the PHP Annual Financial, Performance and Quality Assurance Report.

NCMB Attorney's Report

Mr. Thomas W. Mansfield, Chief Legal Officer, and Mr. D. Todd Brosius, Interim Deputy General Counsel, gave the Attorney's Report on Thursday, January 19, 2017.

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 a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

A written report on 56 pending cases and 28 executed cases was reviewed by the Board. The specifics of these matters are not included as they are non-public. The Board accepted the report as presented. Additionally, the Board reviewed information regarding five matters involving outside litigation. The specifics of this report are not included because these matters are not public information.

A motion passed to return to open session.

Executed Cases - Public Actions:

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

Baule, Raymond Michael MD
Public Letter of Concern executed 12/06/2016

Becerra, Gonzalo Daniel MD
Consent Order executed 11/03/2016

Berk, Carl Warren MD
Public Letter of Concern executed 11/15/2016

Canino, Anthony Carmine MD
Public Letter of Concern executed 12/05/2016

Clancy, Kerry Lee PA
Consent Order executed 11/29/2016

Cracker, Andrew John-Edward MD
Consent Order executed 12/05/2016

Dana, Michael Paul PA
Consent Order executed 01/04/2017

Danforth, Wendell Calvin MD
Consent Order executed 12/06/2016

Gaskins, Raymond Albert MD
Public Letter of Concern executed 01/04/2017

Giordano, Stephen Robert MD
Non-Disciplinary Consent Order executed 11/28/2016

Hunt, Mary Ruth MD
Public Letter of Concern executed 11/30/2016

Keeling, John Wayne MD
Public Letter of Concern executed 01/03/2017

Latterner, Kim Marie PA
Entry of Revocation executed 12/15/2016

Lovato, Frank James PA
Public Letter of Concern executed 11/29/2016

Mcleod, Thomas Allen MD
Consent Order executed 12/20/2016

Moore, Gary Arlan MD
Consent Order executed 11/16/2016

Pellicore, Karen M. NP
Consent Order executed 11/15/2016

Rahulan, Vijil Komanthakkal MD
Consent Order executed 12/28/2016

Reid, Aubrey James Bernard PA
Public Letter of Concern executed 11/29/2016

Rogers, Bruce William MD
Public Letter of Concern executed 01/03/2017

Ross, Travis Sanders PA
Consent Order executed 11/29/2016

Rumley, Richard Lee MD
Consent Order executed 12/08/2016

Sutton, Jeremy Hunter MD
Findings of Fact, Conclusions of Law, and Order of Discipline executed 01/04/2017

Ward, David Townsend MD
Entry of Revocation executed 11/15/2016

NCMB Committee Reports

EXECUTIVE COMMITTEE REPORT

Members present were: Eleanor E. Greene, MD, Chair; Timothy E. Lietz, MD; Barbara E. Walker, DO; and A. Wayne Holloman. Member absent was: Pascal O. Udekwu, MD;

Strategic Plan

a. Strategic Goals Update

   The Committee reviewed the updated Strategic Goals Tracker.

   Committee Recommendation: Accept as information.

   Board Action: Accept Committee recommendation. Accept as information.

b. Proposed Changes to 2017 Strategic Priorities; proposed 2017 activities, measures and targets

   The committee reviewed proposed changes to the 2017 Strategic Priorities and proposed 2017 activities, measures and targets.

   Committee Recommendation: Approve proposed changes to the 2017 Strategic Priorities and proposed 2017 activities, measures and targets. Staff to report on any changes to the current time-based key performance indicators.

Board Action: Accept Committee recommendation. Approve proposed changes to the 2017 Strategic Priorities and proposed 2017 activities, measures and targets. Staff to report on any changes to the current time-based key performance indicators.

Financial Statements

a. Monthly Accounting

The committee reviewed the compiled financial statements for November 2016. November is the first month of fiscal year 2017.

Committee Recommendation: Accept the financial statements as reported.

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

b. Investment Account Statements

The committee reviewed the investment account statements for November and December 2016.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

c. Year – End Financial Statement Audit

Koonce, Wooten & Haywood, LLP, Certified Public Accountants, has completed its audit of the Board's financial statements for the years ending October 31, 2016 and 2015. In their opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities of the North Carolina Medical Board, as of October 31, 2016 and 2015, and the respective changes in financial position and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Chris Duffus, CPA, and Joshua Anderson, CPA, provided an overview of the audit and answered questions.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

New Business

a. Request from Office of Rural Health

The Office of Rural Health (ORH) has asked the Board to collect National Provider Identifier and Sliding Fee Scale information via the Board's annual renewal. This information will assist ORH in gathering information it needs to secure federal loan repayment funds for North Carolina.

Stephanie Nantz, Assistant Director, and Mark Snuggs, HPSA Senior Specialist, explained the request and answered questions.

Committee Recommendation: Approve the request to collect National Provider Identifier and Sliding Fee Scale information from physicians on the Board's annual renewal form.

<u>Board Action:</u> Approve the request to collect National Provider Identifier and Sliding Fee Scale information from physicians on the Board's annual renewal form subject to the following: (1) primary care physicians and psychiatrists may select "prefer not to answer" in response to the Sliding Fee Scale question, (2) the NCMB and ORH will enter into a MOU that clearly defines the limits of use, and (3) the NCMB reserves the right to discontinue collecting this information at any time and for any reason.

b. Safe Opioid Prescribing Initiative Update

The Safe Opioid Prescribing Initiative (SOPI) Workgroup met Friday, December 16, 2016, at the offices of the NC Medical Board to receive an update regarding the SOPI program and to consider proposed changes to the reporting criteria. (appendix A).

The Workgroup supports the proposed changes to paragraph (a) to increase the percentage from one to two percent since that report has yielded a relatively high percentage of poor prescribers not previously known to the Board. However, before commencing the rule-making process, the Workgroup recommends publishing the proposed changes to the Board's licensees and requesting feedback. NCMB staff should compile the responses and report back to the Executive Committee/Board in March or May 2017.

The Workgroup supports the proposed changes to paragraph (b) which would add two additional filters in an effort to reduce the number of reports that do not involve poor prescribers. Specifically, (1) only include prescribers who authorized more than 30 tablets of an opioid to the decedent, and (2) the prescriptions were written within 60 days of the patient's death. However, before commencing the rule-making process, the Workgroup recommends publishing the proposed changes to the Board's licensees and requesting feedback. Staff should compile the responses and report back to the Executive Committee/Board in March or May 2017.

The Workgroup supports creating a new paragraph (c) that focuses on known characteristics of abuse, diversion and/or poor prescribing. However, before commencing the rule-making process, the Workgroup recommends asking the DHHS Drug Control Unit Manager (1) for his input regarding proposed Report C, and (2) to test the criteria of Report C in an effort to

determine the number and quality of reports that would be generated. Once that has been completed, staff should report that to the Workgroup for further discussion/consideration.

Committee Recommendation: Adopt the Workgroup recommendations; however, staff may solicit feedback to proposed changes to Reports A and B as part of the rule-making process.

Board Action: Accept Committee Recommendation. Adopt the Workgroup recommendations; however, staff may solicit feedback to proposed changes to Reports A and B as part of the rule-making process.

POLICY COMMITTEE REPORT

Members Present were: Bryant A. Murphy, M.D., Acting Chairperson; Jerri L. Patterson, N.P.; Venkata R. Jonnalagadda, M.D.; and Shawn P. Parker. Members absent were: Pascal O. Udekwu, M.D., Chairperson

Old Business:

a. CDC Guideline for Prescribing Opioids for Chronic Pain (Appendix B)

The Board had previously started a workgroup to study the recent adoption of the CDC Guideline for Prescribing Opioids for Chronic Pain. At the July 2016 Board meeting, the Board voted to adopt the CDC Guideline and instructed staff to provide a brief position statement announcing the Board's adoption of the CDC Guideline. A draft of a statement was considered at the September 2016 Board meeting and changes were suggested to be considered at the November 2016 Board meeting. The Committee discussed the current status of the Board's position statement. The Committee also discussed the creation of a Federation of State Medical Boards (FSMB) statement on the same topic.

Committee Recommendation: Accept proposed position statement.

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

b. Use of Photography in the Examination Room (Appendix C)

At the July 2016 Committee meeting, there was discussion regarding the Disciplinary Committee's referral of a new position statement addressing use of recording equipment in the examination room. The Board instructed staff to draft a position statement for consideration by the Committee at the November 2016 Board meeting. The Committee considered the position statement including the practical implications of the policy. The proposed position statement has been submitted to stakeholders. Some feedback has been received. Additional edits were suggested and it was suggested that the position statement be brought back at the March 2017 Board Meeting along with feedback.

Committee Recommendation: Bring back for review at March 2017 Board Meeting.

Board Action: Accept Committee recommendation. Bring back for review at March 2017 Board Meeting.

c. Drug Overdose Prevention (Appendix D)

The Committee discussed the additional efforts that the Board is undertaking regarding drug overdose prevention and it was suggested that the position statement should reference those efforts. The Committee reviewed and discussed the new language of the position statement.

Committee Recommendation: Accept position statement.

Board Action: Accept Committee recommendation. Accept position statement.

New Business

a. Professional Use of Social Media (Appendix E)

The Committee discussed the current position statement and recommended one small change. The Committee agreed to accept the position statement with the change.

Committee Recommendation: Accept position statement with minor edit.

Board Action: Accept Committee recommendation. Accept position statement.

LICENSE COMMITTEE REPORT

Members present were: Timothy E. Lietz, MD, Chairperson, Barbara E. Walker, DO, Cheryl L. Walker-McGill and Ralph A. Walker

Old Business:

a. At the July, 2016 License Committee meeting, the Legal Department requested the licensing staff be permitted to process clean applications without Legal/Office of Medical Director or Board Member review where the applicant truthfully reports two or less misdemeanors charges and/or convictions that (1) occurred more than twenty years ago and (2) prior to professional school. The Board Action was to allow the licensing section to process otherwise clean applications where the applicant truthfully reports two or less misdemeanor charges and/or convictions that:

1 – occurred more than twenty years ago, and
2 – prior to professional school.

Without the need for the application to be reviewed by the Legal Department or Senior Staff Review Committee. Additionally, these applications would not be reviewed by a Board Member. Licensing to track the number of applications that would fall into this category and report back to the License Committee in six months.

The licensing section does not recall processing an application that has met these criteria.

Committee Recommendation: Continue to track applications and report back to the license committee in 6 months.

Board Action: Accept Committee recommendation. Continue to track applications and report back to the license committee in 6 months.

b. Interstate Licensure Compact
Update regarding current progress of the Interstate Licensure Compact (IMLC) and PowerPoint presentation.

Committee Recommendation: Accept as information. Staff to continue to monitor. Update the license committee in one year with the progress of the IMLC. Request IMLC's current chair, Dr. Thomas, to present update at January 2018 meeting. Dr. Thomas will report as part of the IMLC and not part of the FSMB.

Board Action: Accept Committee recommendation. Accept as information. Staff to continue to monitor. Update the license committee in one year with the progress of the IMLC. Request IMLC's current chair, Dr. Thomas, to present update at January 2018 meeting. Dr. Thomas will report as part of the IMLC and not part of the FSMB.

New Business

a. Changes to the license application questions

The Legal Department has recommended changing the application questions.

Committee Recommendation: Implement the changes to the application questions except as noted below:
1 - Add definition of the word "registration" in question 3.
2 - Leave question 7 as is – no modification.
3 - Add advisory statement to beginning of the application explaining that a criminal background check shall be performed as part of the application process. If the criminal background check reveals positive results, applicants may be questioned about the results, asked to provide supporting documentation and informed that their license application may be delayed while the Board obtains details of the applicant's prior criminal history.

Board Action: Accept Committee recommendation. Implement the changes to the application questions except as noted below:
1 - Add definition of the word "registration" in question 3.
2 - Leave question 7 as is – no modification.
3 - Add advisory statement to beginning of the application explaining that a criminal background check shall be performed as part of the application process. If the criminal background check reveals positive results, applicants may be questioned about the results,

asked to provide supporting documentation and informed that their license application may be delayed while the Board obtains details of the applicant's prior criminal history.

b. Ms. Jayne Byrd has been reappointed to the Perfusionist Advisory Committee.

   Committee Recommendation: Accept as information.

   Board Action: Accept Committee recommendation. Accept as information.

c. Minutes from the November, 2016 Perfusionist Advisory Committee (PAC)

   Committee Recommendation: 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 License Committee reviewed three cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

LICENSE INTERVIEW REPORT

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

Five licensure interviews were conducted. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

ALLIED HEALTH COMMITTEE REPORT

Committee Members present were: Jerri L. Patterson, NP, Chairperson, Timothy E. Lietz, MD, A. Wayne Holloman.

New Business

a. New committee name proposal.

   Chairperson Patterson opened discussion on a name change for the committee.

   Committee Recommendation: Change committee name to Advanced Practice Providers and Allied Health Committee.

   Board Action Accept Committee recommendation. Change committee name to Advanced Practice Providers and Allied Health Committee.

b. Physician Assistants

   Proposed name change and membership composition of Physician Assistant Advisory Council (PAAC). To be discussed at March meeting of the PAAC.

   NURSE PRACTITIONERS

   Rules for Approval

   21 NCAC 32M .0106 ANNUAL RENEWAL
   21 NCAC 32M .0107 CONTINUING EDUCATION (CE)
   21 NCAC 32M .0109 PRESCRIBING AUTHORITY

   Committee Recommendation: Approve the proposed rules for submission to the Rules Review Commission.

   Board Action Accept Committee recommendation. Approve the proposed rules for submission to the Rules Review Commission.

DISCIPLINARY (COMPLAINTS) COMMITTEE REPORT

Members present were: Bryant Murphy, MD (chairperson), Debra Bolick, MD, Venkata Jonnalagadda, MD, Jerri Patterson, NP, Barbara Walker, DO, and Ralph 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 reported on 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: Bryant A. Murphy, MD (chairperson), Debra A. Bolick, MD, Venkata R. Jonnalagadda, MD, Jerri L. Patterson, NP, Barbara E. Walker, DO, 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 reported on 28 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 (Medical Examiner) COMMITTEE 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.

The Disciplinary (Medical Examiner) Committee reported on three 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 (DHHS) COMMITTEE REPORT

Members present were: Bryant A. Murphy, MD (chairperson), Debra A. Bolick, MD, Venkata R. Jonnalagadda, MD, Jerri L. Patterson, NP, Barbara E. Walker, DO, and Ralph A. Walker, JD

The Director of Complaints will open a case on every licensee identified through the current SOPI criteria. On Group B, overdose deaths, OMD will review cases and recommend closure of the case without an investigation, response or records if the following occurs:

- The licensee prescribes thirty or fewer tablets of an opioid 60 or more days from the patient death OR the licensee prescribes NO opioids to the decedent.

- The licensee would receive a letter to inform them that they met criteria for an investigation but their case was being closed based on the lack of evidence for prescribing issues. The case will be entered into GLS but not be considered an investigation.

NOTE FROM STAFF: This is similar to the process the Board approved in the past that allows the Director of Complaints and OMD to review information and determine a response is not required (complaint, MALP, etc.). Licensee would be made aware of information received from DHHS but we would not request a response but it allows us to keep track in the database of all licensees that are identified via DHHS report. This **is not** considered an investigation.

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 19 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.

Seven investigative 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.

DISCIPLINARY (INVESTIGATIVE) COMMITTEE REPORT

Members present were: Bryant A. Murphy, MD (chairperson), Debra A. Bolick, MD, Venkata R. Jonnalagadda, MD, Jerri L. Patterson, NP, Barbara E. Walker, DO, 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.

Thirty-six 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.

OUTREACH COMMITTEE

Members present were: Debra A. Bolick, MD, Chairperson, Bryant A. Murphy, MD, Shawn Parker, Barbara E. Walker, DO. Absent was: Pascal O. Udekwu, MD

Old Business

a. Overview of Outreach Activities (Presentations)

   The Communications Director summarized Outreach to professional groups in 2016, noting that NCMB ended the year at 46 presentations and reached nearly 1,000 individuals. NCMB has booked several presentations for the first quarter of 2017. Interest is expected to be strong due to the Board's opioids initiatives. The Committee discussed the need to clarify for groups that the Board's opioids update can NOT be counted towards the new controlled substances CME requirement, as there has been some confusion about this. The Committee also discussed whether it would be possible to modify the Board's standard opioids presentation so that the content could qualify towards the requirement. NCMB's Chief Medical Officer, who attended the committee meeting, was supportive of this idea.

   Committee recommendation: Communications staff should look into modifying slide deck such that licensees who attend a presentation could claim credit towards the controlled substances CME. Until the slides are modified, slides should clearly state that the content does NOT meet the new requirement.

   <u>Board action:</u> Accept Committee recommendation. Communications staff should look into modifying slide deck such that licensees who attend a presentation could claim credit towards the controlled substances CME. Until the slides are modified, slides should clearly state that the content does NOT meet the new requirement.

b. Public presentations to consumer audiences

   The Communications Director reported that six presentations to community groups, including Rotary Club meetings and senior centers, have been scheduled so far for 2017. Most presentations will be delivered by Board staff, though Board Member participation would be welcome once this new program is more established.

   Committee recommendation: Accept as information.

   <u>Board action</u>: Accept Committee recommendation. Accept as information.

c. Update on Prescribing CME webinar and panel session with WakeAHEC

The Chief Communications Officer gave an update on NCMB's collaboration with WakeAHEC to develop controlled substances Prescribing CME activities. A UNC anesthesiologist has been confirmed as the presenter for the prerecorded Webinar. The plan is to build the Webinar around the 12 recommendations contained within the CDC's Guideline for Prescribing Opioids for Chronic Pain, while incorporating anonymous case studies to show how the recommendations might be applied in clinical practice. To fulfill the requirements of the grant obtained to complete this project, work must be completed by June 30.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

d. Update on Prescribing Controlled Substances CME Communication

The Chief Communications Officer gave an update on NCMB's plans to communicate with licensees regarding the new controlled substances CME requirement. NCMB hopes to send email communications as soon as February to make licensees aware of the specific date by which they will be expected to have complied with the requirement. In addition, the Communications Department has collected more than 130 email addresses from licensees and others who have indicated they would like to receive regular information and updates about the new CME requirement and will begin sending messages to this list.

Committee recommendation: Proceed with Controlled Substances CME Communication plan; Report progress to the Committee.

Board action: Accept Committee recommendation. Proceed with Controlled Substances CME Communication plan; Report progress to the Committee.

e. President's Initiative Update

The Chief Medical Officer reported that he is working with a UNC preventive medicine resident to flesh out a program to educate medical students and early career professionals about the Board.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

New Business

a. Public awareness research results

The Chief Communications Officer gave a brief overview of results from the recent public survey that was conducted. The survey found that familiarity of NCMB is low (about 10 percent among respondents), indicating a need for more public outreach and marketing. Other findings indicate that adverse information, such as prior disciplinary actions or malpractice payment information, is NOT a primary consideration for patients when choosing a provider; Survey results found that top deciding factors include location and whether the patient's insurance is accepted, as well as information about education and current area of practice. A more detailed presentation of findings will be presented to the full Board on Friday, January 20.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

b. Annual Report preview

The Communications Director gave a brief overview of topics that are being considered for inclusion in the Program Overview section of the 2016 NCMB Annual Report. Topics include implementation of the renewal and license fee increases, NCMB's opioid initiatives, progress in Outreach and the Board's efforts to identify issues related to the employed physician. The report will be written and designed in February and a galley version will be presented to the Board at its March meeting. The report will be posted to the website by March 31.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

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Barbara E. Walker, DO; Secretary/Treasurer

SUBCHAPTER 32Y – CONTROLLED SUBSTANCE REPORTING SYSTEM

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 ~~one~~two percent of those prescribing 100 morphine milligram equivalents ("MME") per patient per day; or

(2) falls within the top ~~one~~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:

1) At least 25 percent of the prescriber's patients receiving opioids reside at least 100 miles from the prescriber's practice location;
2) The prescriber has more than 30 patients receiving the same opioid and benzodiazepine combination;
3) A majority of the prescriber's patients receiving opioids self-pay for the prescription;
4) The prescriber allows an early refill of an opioid prescription more than twice in the last 12 months on any patient;
5) More than 50% of the prescriber's patients receive opioid doses of 100 MME or greater per day; or
6) The prescriber has more than ten patients who use three or more pharmacies within a year to obtain opioids.

(d) 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) 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.

History Note: Authority G.S. 90-113.74;
Eff. May 1, 2015.

Policy for the Use of Opioids for the Treatment of Pain

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

The Board has previously attempted to provide guidance regarding opioid treatment of pain to its licensees through guidance documents generated and maintained by the Board. However, in order to provide its licensees with guidance that reflects the most current medical and scientific research and recommended practices, the Board has decided to adopt and endorse the CDC Guideline for Prescribing Opioids for Chronic Pain written and maintained by the Center for Disease Control and Prevention ("CDC"). While these guidelines do not constitute regulations or necessarily state the standard of care in North Carolina in every context, the Board's believes that these guidelines can provide useful information to licensees related to the appropriate considerations to be made prior to and during treatment plans involving opioids.

The CDC Guideline for Prescribing Opioids for Chronic Pain can be found at the following link: http://www.cdc.gov/media/modules/dpk/2016/dpk-pod/rr6501e1er-ebook.pdf. In addition to its Guideline, the CDC has also provided a number of useful clinician resources related to opioid treatment of pain covering topics such as Nonopioid Treatments, Assessing Benefits and Harms, Calculating Dosage, and Tapering. These documents can be found at the following link: http://www.cdc.gov/drugoverdose/prescribing/resources.html.

It is the Board's hope that familiarity with the concepts included in the documents above will help licensees provide safe and effective care for their North Carolina patients.

(Adopted July 2005) (Amended May 2013; January 2017)

PROPOSED POSITION STATEMENT:

Policy for the Use of Audio or Visual Recordings in Patient Care

The Board recognizes that there may be valid reasons for licensees to make audio or visual recordings of patients during a healthcare encounter. However, such recordings must be made for appropriate professional reasons and should employ safeguards that protect a patient's autonomy, privacy, confidentiality, and dignity. In instances where a patient may be asked to disrobe, the patient should be provided an opportunity to disrobe beyond the view of any camera.

Recordings that could lead to disclosure of the patient's identity constitute protected health information and must be managed and transmitted in a manner that complies with HIPAA requirements.

Informed Consent

Prior to an audio or visual recording being made of a patient, licensees should ensure that they have obtained the patient's informed consent ~~prior to such recording~~. The informed consent should be documented in the medical record~~. The informed consent~~ and should allow the patient an opportunity to discuss any concerns before and after the recording. The patient should also be informed:

1. Of the purpose of the recording and its use ~~the limitations of any potential dissemination~~;
2. That the recording is voluntary and that a refusal to be recorded will not affect the patient's care;
3. That the patient may withdraw consent to be recorded at any time and what will be done with any prior recordings;
4. ~~About the potential benefits and harms of being recorded.~~ Of the possibility of accidental or deliberate dissemination during the acquisition or storage of the information.

Post-recording Responsibilities

A licensee who has made an audio or visual recording of a patient must ensure that:

1. Any recording is used only for the purpose for which the patient consented;
2. Patients are given the opportunity to see the recording if they so wish; and
3. Recordings are given the same protections as other medical records against improper disclosure.

~~Recordings that could lead to disclosure of the patient's identity constitute protected health information and must be managed and transmitted in a manner that complies with HIPAA requirements.~~

CURRENT POSITION STATEMENT:

Drug overdose prevention

The Board is concerned about the rise in overdose deaths over the past decade in the State of North Carolina as a result of both prescription and non-prescription drugs. The Board is encouraged by programs that are attempting to reduce the number of drug overdoses by making available or prescribing an opioid antagonist such as naloxone to someone in a position to assist a person at risk of an opiate-related overdose. The Board therefore encourages its licensees to cooperate with programs in their efforts to make opioid antagonists available to persons at risk of suffering an opiate-related overdose.

The prevention of drug overdoses is consistent with the Board's statutory mission to protect the people of North Carolina. Other efforts the Board has made in this regard include the Board's Safe Opioid Prescribing Initiative and the implementation of continuing medical education requirements for those licensees prescribing controlled substances.

(Adopted September 2008) (Amended March 2013; January 2017)

Professional Use of Social Media

The Board recognizes that social media has increasing relevance to professionals and supports its responsible use. However, health care practitioners are held to a higher standard than others with respect to social media because health care professionals, unlike members of the lay public, are bound by ethical and professional obligations that extend beyond the exam room.

The informality of social media sites may obscure the serious implications and long term consequences of certain types of postings. The Board encourages its licensees to consider the implications of their online activities including, but not limited to, the following:

- Licensees must understand that the code of conduct that governs their face to face encounters with patients also extends to online activity. As such, licensees interacting with patients online must maintain appropriate boundaries in accordance with professional ethical guidelines, just as they would in any other context.

- Licensees have an absolute obligation to maintain patient privacy and must refrain from posting identifiable patient information online regardless of the practice location or circumstance, i.e. volunteer services or services provided abroad.

- A licensee's publicly available online content directly reflects on his or her professionalism. It is advisable that licensees separate their professional and personal identities online (maintain separate email accounts for personal and professional use; establish a social media presence for professional purposes and one for personal use, etc.).

- Because privacy is never absolute, considerations of professionalism should also extend to a licensee's personal accounts. Posting of material that demonstrates, or appears to demonstrate, behavior that might be considered unprofessional, inappropriate or unethical should be avoided.

- The online use of profanity, disparaging or discriminatory remarks about individual patients or types of patients is unacceptable.

- Licensees should routinely monitor their own online presence to ensure that the personal and professional information on their own sites is accurate and appropriate.

The Board also endorses the Model Policy Guidelines for the Appropriate Use of Social Media and Social Networking in Medical Practice adopted by the Federation of State Medical Boards which can be accessed at http://www.fsmb.org/pdf/pub-social-media-guidelines.pdf. Further discussion of this issue by the Board's Medical Director can be found at http://www.ncmedboard.org/articles/detail/practicing_medicine_in_the_facebook_age_maintaining_professionalism_online.

(Adopted September 2008) (Revised March 2013; January 2017)

Position Statement Review tracking chart:

1/2010 Committee Recommendation: (Loomis/Camnitz) Adopt a four-year review schedule as presented. All reviews will be offered to the full Board for input. Additionally, all reviews will be documented and will be reported to the full Board, even if no changes are made.

1/2010 Board Action: Adopt the recommendation of the Policy Committee.

POSITION STATEMENT	ADOPTED	SCHEDULED FOR REVIEW	LAST REVIEWED	PRIOR REVIEW
Policy for the Use of Audio or Visual Recording in Patient Care		NEW Nov-16		
The Treatment of Obesity	Jan-05	Mar-17	May-13	Nov-10
Medical Record Documentation	May-94	Mar-17	May-13	May-09
Retention of Medical Records	May-98	Mar-17	Jul-13	May-09
Capital Punishment	Jan-07		Jul-13	Jul-09
Professional Obligations pertaining to incompetence, impairment, and unethical conduct of healthcare providers	Nov-98		Sept-13	May-10
Unethical Agreements in Complaint Settlements	Nov-93		Sept-13	Mar-10
Guidelines for Avoiding Misunderstandings During Physical Examinations	Jan-00		Jan-14	Jul-09
Departures from or Closings of Medical Practices	Jan-00		Mar-14	Jul-09
Access to Physician Records	Nov-93		May-14	Sep-10

Medical Supervisor-Trainee Relationship	Apr-04		Jul-14	Nov-10
Advertising and Publicity	Nov-00		Sep-14	Mar-12
Telemedicine	Jul-10		Nov-14	Mar-13
Medical, Nursing, Pharmacy Boards: Joint Statement on Pain Management in End-of-Life Care	Oct-99		Nov-14	Jan-11
Writing of Prescriptions	May-91		Jan-15	Jul-12
HIV/HBV Infected Health Care Workers	Nov-92		Mar-15	Jan-11
Laser Surgery	Jul-99		Mar-15	Mar-11
Sale of Goods From Physician Offices	Mar-01		Mar-15	May-11
Competence and Reentry to the Active Practice of Medicine	Mar-01		**REPEALED 7-15**	May-11
Prescribing Controlled Substances for Other Than Valid Medical or Therapeutic Purposes, with Particular Reference to Substances or Preparations with Anabolic Properties	May-98		Jul-15	Sep-11
Contact With Patients Before Prescribing	Nov-99		Jul-15	Nov-14
Referral Fees and Fee Splitting	Nov-93		Sep-15	Jan-12
Physician Supervision of Other Licensed	Jul-07		Nov-15	Sep-12

Health Care Practitioners				
Self- Treatment and Treatment of Family Members and Others With Whom Significant Emotional Relationships Exist	May-91		Nov-15	Mar-12
Availability of Physicians to Their Patients	May-91		Jan-16	Sep-05
Corporate Practice of Medicine	NEW Mar-16			
Office-Based Procedures	Sep-00		Mar-16	May-11
Sexual Exploitation of Patients	May-91		Mar-16	Apr-12
Care of the Patient Undergoing Surgery or Other Invasive Procedure	Sep-91		Mar-16	Jul-12
The Physician-Patient Relationship	Jul-95		Sep-16	Jul-12
The Retired Physician	Jan-97		Jul-16	Jul-12
Advance Directives and Patient Autonomy	Mar-08		Jul-16	Sep-12
Medical Testimony	Jan-97		Jul-16	Jul-12
End-of-Life Responsibilities and Palliative Care	Oct-99		Nov-16	Nov-14
Policy for the Use of Controlled Substances for the Treatment of Pain	Jul-05		Jan-17	May-13
Drug Overdose Prevention	Sep-08		Jan-17	Jan-13
Professional Use of Social Media	Sep-08		Jan-17	Mar-13