



# **BOARD MEETING MINUTES**

**July 15 - 17, 2020**

**1203 Front Street  
Raleigh, North Carolina**

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held July 15 - 17, 2020.

The July 2020 meeting of the North Carolina Medical Board was held at 1203 Front Street, Raleigh, NC 27609 and video conference. 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; 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; Devdutta G. Sangvai, MD, and Mr. William M. Brawley

### **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.

### **ANNOUNCEMENTS**

Dr. Murphy welcomed Mr. William M. Brawley to the NC Medical Board as the newest Board member. Mr. Brawley took the Oath of Office on July 12th and, therefore, has been an official member of the Board since that date.

### **PRESENTATIONS**

Dr. Murphy introduced Palmer Edwards, MD, DFAPA, President of the North Carolina Medical Society (NCMS), who gave a presentation on the NCMS.

Dr. Murphy introduced Charlene Green, MD, President of the Old North State Medical Society (ONSMS) who gave a presentation on the ONSMS.

Dr. Murphy introduced Alisha DeTroye, MMS, PA-C, DFAAPA, President and Emily Adams, MPA, Executive Director of the North Carolina Academy of Physician Assistants (NCAPA) who gave a presentation on the NCAPA.

### **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.

Dr. Jordan presented the NCPHP Audit report and Dr. Jonnalagadda presented the NCPHP Board of Directors report.

### **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.

A motion passed to return to open session.

Mr. Brian L. Blankenship, Deputy General Counsel and Mr. Thomas W. Mansfield, Chief Legal Officer, gave the Attorney's Report on Friday, July 17, 2020.

Mr. Blankenship updated the Board on the Hearing docket 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.

**Andrews**, Thomas John MD

Relief of Consent Order Obligations executed 06/04/2020

**Arastu**, Hyder Husain MD

Consent Order executed 06/02/2020

**Caudle**, Scott Okrina MD

Consent Order executed 05/26/2020

**Clark**, Bendik Larson MD

Consent Order executed 06/01/2020

**Dugliss, Malcolm Andrew John PA**  
Consent Order executed 06/23/2020

**Edwards, Galen Matthew PA**  
Consent Order executed 05/08/2020

**Godbold, Antonya Werner MD**  
Reentry Agreement executed 05/28/2020

**Hicks, Harlan Meguiel MD**  
Consent Order executed 06/19/2020

**Khan, Farouk Yusaf MD**  
Consent Order executed 05/28/2020

**Kumar, Sanjay MD**  
Order to Continue and Amended Scheduling Order executed 05/26/2020

**Libre, Giovanni MD**  
Consent Order executed 05/18/2020

**Nicks, Carl Michael MD**  
Reentry Agreement executed 06/11/2020

**Pavelock, Richard Micheal MD**  
Consent Order executed 05/26/2020

**Rukstalis, Daniel MD**  
Public Letter of Concern executed 05/21/2020

**Sawyer, Rachel Sharlene PA**  
Reentry Agreement executed 06/16/2020

**Stamper, Jason Noah DO**  
Public Letter of Concern executed 5/19/2020

**VanPala, Henry Joseph MD**  
Consent Order executed 05/26/2020

**Washburn, Ronald Lee MD**  
Public Letter of Concern executed 6/03/2020

**Wilson, Scott Douglas Culler MD**  
Consent Order executed 06/25/2020

**Won, John Sunghoon MD**  
Consent Order executed 05/18/2020

**Woolfrey, Michael Richard MD**  
Amended Consent Order executed 05/14/2020

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 outside litigation matters was presented by Mr. Mansfield.

A motion was passed to return to open session.

That concluded the Attorney's Report

### **Legislative Update**

On Friday, July 17, 2020, the Board's Legislative Liaisons, Mr. Thomas W. Mansfield, Chief Legal Officer and Ms. Evelyn Contre, Chief Communications Officer and Board Attorney Elizabeth Meredith, provided a legislative update to the Board.

The Board accepted the reports as information

### **NCMB COMMITTEE REPORTS**

#### **Executive Committee Report**

Members present via video/teleconference 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 June 30, 2020: 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 May and June 2020.

Committee Recommendation: Accept the investment statements as reported.

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

## Old Business

### a. Office Space Project Report

The NCMB Phase Three Office Space Project Team gave an update regarding the renovation of Board's office building on Smoketree Court.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

### b. Final Approval of Proposed Changes to Rule 21 NCAC 32R.0102: "Approved Categories of CME"

In September, we received a letter from the American College of Continuing Medical Education (ACCME) asking the Board to make it clear interprofessional continuing education (ICPE) approved by the Joint Accreditation for Interprofessional Continuing Education qualifies for CME credit.

This request is consistent with a resolution approved by the FSMB House of Delegates (2019):

Resolved, that the Federation of State Medical Boards supports and recognizes Interprofessional Continuing Education for physicians that is identified by IPCE credit and is accredited by the Joint Accreditation system launched by the Accreditation Council for Continuing Medical Education (ACCME), the Accreditation Council for Pharmacy Education (ACPE), and the American Nurses Credentialing Center (ANCC), as an additional means of satisfying continuing medical education requirements for medical license renewal.

In March, the Board approved these changes for comment. The only comment received was from Dr. Graham McMahon, President and CEO, ACCME, in support of the proposed changes.

Committee Recommendation: Adopt the proposed changes to 21 NCAC 32R.0102.

Board Action: Accept Committee recommendation. Adopt the proposed changes to 21 NCAC 32R.0102 as shown on Appendix A.

## New Business

### a. NCMB Appointments Update

There are 14 applicants for three open positions. The NCMB Review Panel will meet August 22 to conduct interviews, discuss the candidates and decide whom to nominate to the Governor. Historically, nominations are sent to the Governor's office in early September and appointments are made late September or early October. The terms will start November 1.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

### b. NCMB Review Panel Appointment

The NCMB Review Panel reviews candidates for all non-public member positions on the Board and make recommendations to the Governor. The Review Panel consists of nine members including a public member of the Medical Board. Judge Walker has served as the Board's representative since last November.

Since Judge Walker is no longer eligible to serve, the Board will need to appoint one of its public members as its 2020 representative.

Committee Recommendation: Appoint Shawn P. Parker, JD, to the NCMB Review Panel.

Board Action: Accept Committee recommendation. Appoint Shawn P. Parker, JD, to the NCMB Review Panel.

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.

a. Officer and At-Large Executive Committee Nominations

A motion passed to return to open session.

Pursuant to the NCMB Bylaws, at the July meeting the Executive Committee must nominate to the Board a slate of officers and at-large Executive Committee members for the upcoming year (beginning November 1).

Committee Recommendation: Accept the Executive Committee's submitted nominations, effective November 1, 2020:

President-Elect: John W. Rusher, MD

Secretary/Treasurer: Michaux R. Kilpatrick, MD

Executive Committee Member-at-Large: Shawn P. Parker, JD

Executive Committee Member-at Large: Varnell D. McDonald-Fletcher, PA-C

Board Action: Accept Committee recommendation. Accept the Executive Committee's submitted nominations: effective November 1, 2020:

President-Elect: John W. Rusher, MD

Secretary/Treasurer: Michaux R. Kilpatrick, MD

Executive Committee Member-at-Large: Shawn P. Parker, JD

Executive Committee Member-at Large: Varnell D. McDonald-Fletcher, PA-C

**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 Mr. William M. Brawley

Old Business:

a. Position Statements Review Workgroup

Staff detailed the tasks that the workgroup had completed over the past few months, including creating a proposed categorization for the position statements, which was guided by the American Medical Associations' Code of Medical Ethics, and drafting a new position statement compendium organized by the proposed categorization. The



Committee viewed the compendium favorably and expressed that the categorization and compendium were good starting points. The Committee Members were tasked with reviewing the proposed compendium and providing staff with comments regarding proposed revisions, inconsistencies, and if certain position statements are still relevant or should be removed. Staff will compile a red-line version of the compendium based on the comments received from Committee Members and the Committee will review the red-line compendium at the November 2020 Committee meeting.

Committee Recommendation: Accept as Information.

Board Action: Accept Committee recommendation. Accept as Information.

b. Writing of Prescriptions

Staff gave an overview of the revisions made to the current position statement, which removed information that was extraneous, covered by other position statements, and/or outdated due to current healthcare regulations and laws. Staff wanted to ensure that the position statement was limited to the basic underlying core principles of prescribing. Staff also described its efforts to solicit feedback from outside groups and hospitals regarding prescribing and e-prescribing but advised that little substantive feedback was received. The Committee directed staff to research the Centers for Medicare & Medicaid Services guidelines and how neighboring states have addressed prescribing and e-prescribing.

Committee Recommendation: Staff to research the Centers for Medicare & Medicaid Services guidelines and how neighboring states have addressed prescribing and e-prescribing. If necessary, staff will make further revisions to the position statement and bring the revised position statement to the Committee in September.

Board Action: Accept Committee recommendation. Staff to research the Centers for Medicare & Medicaid Services guidelines and how neighboring states have addressed prescribing and e-prescribing. If necessary, staff will make further revisions to the position statement and bring the revised position statement to the Committee in September.

New Business:

a. Future Topics of Discussion and Process for Addressing Proposed Topics of Discussion

The Committee Members and staff discussed what protocols should be in place for the Committee to receive proposed topics of discussion from outside parties and how the Committee should determine which topics should be discussed. The Committee decided that it should review topics based on a case-by-case basis. Specific reference was made to an ethical issue that was referred to the Committee for discussion. The

Committee debated if, how, and when the stakeholders involved should present to the Committee. Staff suggested that the Committee first receive information from the stakeholders in writing, and then, if necessary, invite the stakeholders to present before to the Committee. The Committee and staff also discussed the potential ramifications of the Committee making a policy decision before the pending litigation involving the ethical issue was concluded.

**Committee Recommendation:** Staff shall research the ethical issue and reach out to the stakeholders involved and ask for written statement in support of their position. Staff will also reach out to neutral stakeholders regarding the ethical issue. The Committee will then discuss the ethical issue at the September 2020 Committee meeting.

**Board Action:** Accept Committee recommendation. Staff shall research the ethical issue and reach out to the stakeholders involved and ask for written statement in support of their position. Staff will also reach out to neutral stakeholders regarding the ethical issue. The Committee will then discuss the ethical issue at the September 2020 Committee 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

#### New Business

##### a. Reentry

Reentry licensees who are unable to find a reentry mentor or venue or who are laid off, furloughed, or fired (without cause) during reentry should, upon the licensees request, be considered for a 6 months to one year extension to start or complete their reentry plan. Each extension request would be evaluated on an individual basis considering such factors as the time out of practice which led to reentry, the reentry licensees past experience, the reason for leaving practice, the proposed area of practice, etc. The specific reentry venue or practice site would still require approval as stipulated in the original reentry agreement.

**Committee Recommendation:** Board staff may approve a reasonable time extension of the reentry process under the circumstances noted above. (SSRC)

**Board Action:** Approve committee recommendation. Board staff may approve a reasonable time extension of the reentry process under the circumstances noted above. (SSRC)

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

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

A motion passed to return to open session.

### **License Interview Report**

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

Eleven licensure interview 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. Request to waive certain rules for physician assistants changing practice settings in response to Covid-19 emergency.

Committee Recommendation: Direct staff to work with the NC Academy of Physician Assistants to draft a waiver of the requirement of written supervisory arrangements for physician assistants changing practice setting in response to the Covid-19 emergency when the physician assistant will be providing care to Covid-19 patients. Dr. Hall, Dr. Rusher, and Ms. Patterson will review and give final approval to the wording of the waiver.

Board Action: Accept Committee recommendation. Direct staff to work with the NC Academy of Physician Assistants to draft a waiver of the requirement of written supervisory arrangements for physician assistants changing practice setting in response to the Covid-19 emergency when the physician assistant will be providing care to Covid-19 patients. Dr. Hall, Dr. Rusher, and Ms. Patterson will review and give final approval to the wording of the waiver.

- b. PA prescription rule change to remove requirement of physician assistant license number appearing on prescriptions. 21 NCAC 32S .0212(5)(b).

Committee Recommendation: Approve rule change.

Board Action: Accept Committee recommendation. Approve rule change.

- c. PA prescription rule change to remove the name of authorizing supervising physician – primary or backup – name and telephone number on prescriptions. 21 NCAC 32S .0212(5)(c)

Committee Recommendation: Approve rule change.

Board Action: Accept Committee recommendation. Approve rule change.

### **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 11 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 44 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 74 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.

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

A motion passed to return to open session.

### **Outreach Committee Report**

Members present were: Venkata R. Jonnalagadda, MD, Chairperson; Michaux R. Kilpatrick, MD; and Mr. William M. Brawley

#### Old Business

a. Update on outreach activities

The Communications Department gave an update on recent and upcoming professional and public outreach and provided an overview of NCMB's outreach program to orient the Committee's newest member, Mr. Brawley. NCMB has been able to continue scheduling opportunities to present virtually to numerous professional meetings. NCMB is also continuing to pursue public outreach opportunities, although opportunities are few given the current pandemic. NCMB will participate in a virtual health fair in the fall.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation; Accept as information.

b. "Suicide in Healthcare" discussion

The Committee continued to discuss ways NCMB can highlight the issue of suicide in healthcare. The September issue of the Forum will feature content on suicide prevention and a podcast episode on suicide in healthcare is planned for NCMB's forthcoming podcast. The Chief Communications Officer is actively initiating conversations with various stakeholder groups to identify opportunities for NCMB to present or collaborate.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation; Accept as information.

#### New Business

a. Other outreach activities

The Committee previewed new resources that are in development to raise awareness of sexual misconduct in healthcare. The Communications Department has created three

brochures that cover: 1. Intimate examinations, including the patient's right to a chaperone 2. Techniques used in physical examinations, and 3. Recognizing sexual impropriety/misconduct in the context of a clinician-patient relationship. The department is in the process of gathering Board Member and staff feedback before finalizing the resources and will then determine how best to promote them. Committee members felt the resources could be of benefit to both professional and public audiences. In other business, the Communications Department gave a brief update on the NCMB podcast. The Department has purchased some equipment and is developing scripts for the first few episodes and is on track to launch this fall.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation; Accept as information

### **ADJOURNMENT**

The Medical Board adjourned at 12:06 p.m. on Friday, July 17, 2020.

The next meeting of the Medical Board is scheduled for September 23 - 25, 2020.



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John W. Rusher, MD; Secretary/Treasurer

1 21 NCAC 32R .0102 is amended as published in 34:21 NCR 1983 as follows:

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3 21 NCAC 32R .0102 APPROVED CATEGORIES OF CME

4 (a) Category 1 CME providers are:

5 (1) Institutions or organizations accredited by the Accreditation Council on Continuing Medical  
6 Education (ACCME) and reciprocating organizations;

7 (2) The American Osteopathic Association (AOA);

8 (3) A state medical society or association;

9 (4) The American Medical Association (AMA); ~~and~~

10 (5) Specialty boards accredited by the American Board of Medical Specialties (ABMS), the AOA or  
11 Royal College of Physicians and Surgeons of Canada (~~RCPSC~~); (RCPSC); and

12 (6) The Joint Accreditation for Interprofessional Continuing Education.

13 (b) Category 1 CME education shall be presented, offered, or accredited by a Category 1 provider as defined above  
14 and shall include:

15 (1) Educational courses;

16 (2) Scientific or clinical presentations or publications;

17 (3) Printed, recorded, audio, video, online or electronic educational materials for which CME credits  
18 are awarded by the publisher;

19 (4) Journal-based CME activities within a peer-reviewed, professional journal;

20 ~~(4)(5)~~ Skill development;

21 ~~(5)(6)~~ Performance improvement activities; or

22 ~~(6)~~ Journal-based CME activities within a peer-reviewed, professional journal.

23 (7) Interprofessional continuing education.

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25 History Note: Authority G.S. 90-5.1(a)(3)(9) and (10); G.S. 90-14(a)(15);

26 Eff. January 1, 2000;

27 Amended Eff. August 1, 2012; July 1, 2007; January 1, 2001;

28 Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,  
29 ~~2016.~~ 2016;

30 Amended Eff. September 1, 2020.