

MINUTES



July 20 - 22, 2016

**1203 Front Street
Raleigh, North Carolina**

General Session Minutes of the North Carolina Medical Board Meeting held July 20 - 22, 2016.

The July 2016 meeting of the North Carolina Medical Board was held at the Board's Office, 1203 Front Street, Raleigh, NC 27609. Pascal O. Udekwu, MD, President called the meeting to order. Board members in attendance were: Eleanor E. Greene, MD, President-Elect; Timothy E. Lietz, MD, Secretary/Treasurer; Cheryl L. Walker-McGill, MD, Immediate Past-President; Mr. Michael J. Arnold; Mr. A. Wayne Holloman; Bryant A. Murphy, MD; Debra A. Bolick, MD; Judge Ralph A. Walker; Venkata R. Jonnalagadda, MD; Ms. Jerri L. Patterson, NP; Mr. Reamer Bushardt. Board Members absent: Barbara E. Walker, DO.

Presidential Remarks

Dr. Udekwu 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 May 18 - 20, 2016 Board Minutes. There was not a Board Hearing in February; therefore there were no minutes for that month. A motion also passed to approve an amendment to the March 2016 meeting minutes to reflect that PHP gave the following reports during the March 2016 North Carolina Board Meeting: The Compliance Committee reports for January and March 2016; the Annual Financial, Performance and Quality Assurance report for January 2016 and the Bi-Annual report for March 2016.

Announcements

Dr. Greene introduced visiting guest, Dr. Docia Hickey, President of North Carolina Medical Society.

Dr. Walker-McGill gave the Federation of State Medical Boards' Board of Directors Report.

Mr. David Henderson congratulated Ms. Wanda Long on her 25 years of service.

Microphone training was provided to Board members by North Carolina Medical Board's Information Technology Engineer.

NC PHP Reports

NCPHP COMPLIANCE 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, 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; Board of Directors report; Board of Governance report and Post Monitoring and Post Treatment Surveys report. The specifics of these reports are not included because these actions are not public.

A motion passed to return to open session.

NCMB Attorney's Report

Mr. Thomas W. Mansfield, Chief Legal Officer, and Mr. Brian L. Blankenship, Deputy General Counsel, gave the 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, 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 45 pending cases and 62 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 four 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.

NCMB Committee Reports

EXECUTIVE COMMITTEE REPORT

Members present were: Pascal O. Udekwu, MD, Chairperson; Cheryl L. Walker-McGill, MD; Eleanor E. Greene, MD; Timothy E. Lietz, MD; and Mr. Michael J. Arnold.

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.

Financial Statements

a. Monthly Accounting

The Committee reviewed the compiled financial statements for April and May 2016. May is the seventh month of fiscal year 2016.

Committee Recommendation: Accept the financial statements as reported.

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

b. Investment Account Statements

Mr. Matt Wedding and Mr. David Culpepper, Fifth Third Bank, Charlotte, are the Board's investment advisors. They met with the Committee to discuss the financial market and the Board's investments.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

Old Business

a. Directors & Officers Insurance Coverage

At the March 2016 meeting, the Board asked staff to research the possibility of increasing the D&O insurance coverage. Discussions are ongoing with the Board's current insurance carrier.

Committee Recommendation: Accept as information. No action required at this time.

Board Action: Accept Committee recommendation. Accept as information. No action required at this time.

b. Surgeon General

The Board has invited Vice Admiral (VADM) Vivek H. Murthy, MD, MBA, 19th United States Surgeon General, to travel to NC to address the opioid crisis. We hope to identify an upcoming medical meeting that will work with Dr. Murthy's schedule.

Committee Recommendation: Accept as information. No action required.

Board Action: Accept Committee recommendation. Accept as information. No action required at this time.

c. Cumberland County Medical Society (CCMS) Update

CCMS has asked the Board to withdraw its membership from the Federation of State Medical Boards (FSMB) due to allegations of FSMB financial improprieties including involvement in "Data Commons" and an alleged investigation by the U.S. Senate Finance Committee into

“kickbacks” paid by pharmaceutical companies in connection with the FSMB’s opioid prescribing guide.

Staff investigated these allegations and provided a report to the Committee. Committee Recommendation (Dr. Walker-McGill recused):

1. Decline request to terminate the Board’s formal relationship with FSMB; and
2. Inform the CCMS that the Board has evaluated the allegations contained in their letter of October 27, 2015, found no financial improprieties and decided to continue its existing membership in FSMB and to participate in committees, workgroups, conferences, training, education and other activities of FSMB as it has in the past (remembering always that the Board makes its decisions based on all available information and input from stakeholders and not simply based on FSMB positions or recommendations.)

Board Action: Accept Committee recommendation. 1) Decline request to terminate the Board’s formal relationship with FSMB; and 2) Inform the CCMS that the Board has evaluated the allegations contained in their letter of October 27, 2015, found no financial improprieties and decided to continue its existing membership in FSMB and to participate in committees, workgroups, conferences, training, education and other activities of FSMB as it has in the past (remembering always that the Board makes its decisions based on all available information and input from stakeholders and not simply based on FSMB positions or recommendations.)

New Business

a. Research Proposal

Sharon Schiro, PhD, Associate Professor, UNC Department of Surgery, and Data Scientist, NC Trauma Registry, met with the Executive Committee to describe a proposed study that would measure the effects of a letter from the NCMB to prescribers that compares their prescribing of opioids and benzodiazepines with similar NC prescribers who does not receive a letter.

Committee Recommendation: Decline to participate.

Board Action: Accept Committee recommendation. Decline to participate.

b. Legislative Update

The Board’s Legislative Liaison, gave the Committee an update on the 2015-2016 Legislative Session.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

c. Litigation Update

Legal Chief Officer met with the Executive Committee in closed session and provided an update regarding pending litigation.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

d. Nominations: Officers and Executive Committee Members

Pursuant to the NCMB Bylaws, the Committee met to nominate to the Board a slate of officers and an at-large Executive Committee member for the upcoming year (beginning November 1, 2016.)

Committee Recommendation: Nominate the following officers:

President-Elect: Timothy E. Lietz, MD

Secretary/Treasurer: Barbara E. Walker, DO

Member at Large: Mr. Michael J. Arnold

Board Action: Accept Committee recommendation. The following officers were nominated:

President-Elect: Timothy E. Lietz, MD

Secretary/Treasurer: Barbara E. Walker, DO Member at Large: Mr. Michael J. Arnold

POLICY COMMITTEE REPORT

Members Present: Cheryl L. Walker-McGill, MD, Chairperson; Mr. Michael J. Arnold; Jerri Patterson, N.P. and Reamer L. Bushardt, PharmD, PA-C.

Old Business:

a. The Physician-Patient Relationship – Appendix A

At the May 2016 Board meeting, the Committee discussed whether the language regarding termination of the physician-patient relationship reflected current reality in the practice of medicine particularly as it relates to employed physicians. The Board directed staff to revise the position statement with an eye towards empowering employed physicians in observing their responsibilities regarding the termination of the physician-patient relationship.

Board staff presented a menu of options to be included in a future revision of the position statement. The Committee discussed the limited control that some employed physicians have regarding the care of their patients.

Committee Recommendation: Allow staff to present a draft revision at the September 2016 Policy Committee meeting.

Board Action: Accept Committee recommendation. Allow staff to present a draft revision at the September 2016 Policy Committee meeting.

b. CDC Guidelines for Prescribing Opioids for Chronic Pain

The Board had previously started a workgroup to study the recent adoption of the CDC Guidelines for Prescribing Opioids for Chronic Pain. In May 2016, advisers to the FDA called for a major overhaul of the FDA's policies pertaining to opioids which have not been amended since 2012.

At the May 2016 Board meeting, the Committee recommended tabling changes to the Board's guidance document until after the FDA had made changes to its policies. It now appears that the changes to FDA policy may not happen as expeditiously as previously thought. Staff brought this matter back to the Committee for further consideration.

Staff explained the origins of the Board's policy statement and the current efforts on a national level to implement policies regarding opiate prescribing for chronic pain. The limitations of the Board's resources and the ability to maintain an up-to-date policy statement were also addressed. It was suggested that the Board should consider adopting the CDC Guidelines as its official policy statement.

Committee Recommendation: Provide a brief policy statement adopting the CDC Guidelines at the September 2016 Policy Committee meeting.

Board Action: Accept Committee recommendation. Provide a brief policy statement adopting the CDC Guidelines at the September 2016 Policy Committee meeting.

New Business

a. Medical Testimony – Appendix B

It was noted by staff that the AMA Ethics Opinion has been recently updated, and it was suggested that a revised statement containing the newest version of the AMA Opinion be reviewed by the Committee at the September 2016 meeting.

Committee Recommendation: Revise position statement to include most recent version of the AMA Ethics Opinion on medical testimony.

Board Action: Accept Committee recommendation. Revise position statement to include most recent version of the AMA Ethics Opinion on medical testimony.

Advanced Directives and Patient Autonomy – Appendix C

The Committee solicited comments regarding the position statement. Neither the Committee members nor staff had any suggested changes. Mr. Arnold was recused from this discussion.

Committee Recommendation: Note review of position statement. No changes.

Board Action: Accept Committee recommendation. Note review of position statement. No changes.

b. Miscellaneous

Staff noted that a former Board member expressed interest in discussing the Board's position statement regarding End-of-Life Responsibilities and Palliative Care. There was also discussion regarding the Disciplinary Committee's referral of a new position statement addressing use of recording equipment in the examination room.

Committee Recommendation: Allow former Board member to make presentation on palliative care at the September 2016 Board meeting. Direct staff to develop a draft position statement on use of photography in the exam room for consideration at the November 2016 Board meeting.

Board Action: Accept Committee recommendation. Allow former Board member to make presentation on palliative care at the September 2016 Board meeting. Direct staff to develop a draft position statement on use of photography in the exam room for consideration at the November 2016 Board meeting.

c. Position Statement Review Tracking Chart – Appendix D

The Policy Committee reviewed the Position Statement Review Tracking Chart and confirmed that all position statements are on track to be reviewed at least once every four years as required by the January 2010 Board Action.

Board Action: Accept Committee recommendation. Accept as information.

LICENSE COMMITTEE REPORT

Members present were: Bryant A. Murphy, MD, Chairperson; Debra A. Bolick, MD; Eleanor E. Greene, MD and Judge Ralph A. Walker. Absent: Mr. A. Wayne Holloman

New Business

a. Key Performance Indicators (KPI)

Data from February, 2016 – June, 2016.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. Procedure to process license applications with misdemeanor charges or conviction

The Legal Department is requesting the licensing staff be permitted to process clean applications without Legal/OMD 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.

Committee Recommendation: 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.

Board Action: Accept Committee recommendation. 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.

c. Non-disclosures of academic remediation/probations and when to issue a PLOC

Dr. Murphy has requested the committee discuss and come up with guidelines for when non-disclosures should result in a PLOC or other actions.

Committee Recommendation: Modify the Verification of Medical Education form and the Postgraduate Training Verification form to advise the institution to provide documentation if the applicant was aware of the probation if probation is reported.

Board Action: Accept Committee recommendation. Modify the Verification of Medical Education form and the Postgraduate Training Verification form to advise the institution to provide documentation if the applicant was aware of the probation if probation is reported.

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, 90-21.22 of the North Carolina General Statutes and not considered a public record

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

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

A motion passed to return to open session.

LICENSE INTERVIEW REPORT

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, 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: Venkata R. Jonnalagadda, MD; Reamer L Bushardt, PA-C and Jerri L. Patterson, NP. Absent: Barbara E. Walker, DO, Chair

New Business

a. PHYSICIAN ASSISTANTS

Physician Assistant Advisory Committee ("PAAC") meetings

Allied Health Committee would be extended an additional hour for the PAAC meeting to be held prior to the Allied Health Committee meeting.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

CLOSED SESSION

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, 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 Committee reviewed the Physician Assistant Advisory Committee (PAAC) recommendations. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

b. NURSE PRACTITIONERS

The Joint Sub Committee ("JSC") approved all the recommendations from the May JSC Panel meeting.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

DISCIPLINARY (COMPLAINTS) COMMITTEE REPORT

Members present were: Timothy E. Lietz, MD; Mr. Michael J. Arnold; Eleanor E. Greene, MD; Venkata Jonnalagadda, MD; and Bryant A. Murphy, MD. Absent: Barbara E. Walker, DO, Chairperson.

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, 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 forty-one 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: Timothy E. Lietz, MD; Mr. Michael J. Arnold; Eleanor E. Greene, MD; Venkata Jonnalagadda, MD and Bryant A. Murphy, MD. Absent: Barbara E. Walker, DO Chairperson.

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, 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 forty-nine 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, 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney/client privilege.

Nine 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: Timothy E. Lietz, MD; Mr. Michael J. Arnold; Debra A. Bolick, MD; Eleanor E. Greene, MD and Bryant A. Murphy, MD. Absent: Barbara E. Walker, DO Chairperson

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, 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney/client privilege.

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

A motion passed to return to open session.

DISCIPLINARY (NC CSRS) COMMITTEE REPORT

Members present were: Timothy Lietz, MD (chairperson), Mr. Michael Arnold, Eleanor Greene, MD, Venkata Jonnalagadda, MD, and Bryant Murphy, MD. Absent: Barbara Walker, DO

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, 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 (CSRS) Committee reported on four cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

OUTREACH COMMITTEE

Members present were: Timothy E. Lietz, MD, Chairperson; Debra A. Bolick, MD; Bryant A. Murphy, MD; Ralph A. Walker, JD, LLB.

Old Business

a. Update on ongoing Outreach activities

The Board is on track to exceed its target for Outreach for the year. In 2015, NCMB completed 30 presentations; The Board's goal for 2016 is to match that, while collecting information about audience satisfaction and tracking the number of individuals reached. As of this week, NCMB has completed 23 presentations and has an additional 10 talks scheduled (33 for the year, to date).

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

b. Website recommendations

The Committee reviewed recommendations developed by Consumer Reports magazine to make medical board websites more transparent and user friendly from the consumer perspective. The Committee noted that some recommendations, such as changing the name of the licensee search to the more consumer-friendly term "Look up a doctor or PA," have already been implemented. The Committee discussed the feasibility and desirability of other recommendations.

Committee recommendation: Direct staff to modify the NCMB website's home page to include "Complaint Information" next to "Look up a doctor or PA." Staff are also directed to obtain information about the cost of implementing live Web streaming of public Board proceedings.

Board action: Approve Committee recommendation. Direct staff to modify the NCMB website's home page to include "Complaint Information" next to "Look up a doctor or PA." Staff are also directed to obtain information about the cost of implementing live Web streaming of public Board proceedings.

c. Communication plan updates:

- i. Safe Opioid Prescribing Initiative
- ii. Prescribing CME

The Chief Communications Officer reviewed Communications' Department plans to educate licensees about the pending rule changes to require controlled substances prescribers to complete CME in pain management and related topics. An article is planned the Summer (August 2016) Forum, an extensive FAQ list has been developed and a new resources page is planned for the website. NCMB will also work with partner organizations to raise physician and PA awareness of the pending requirements. The Committee indicated that links to CME opportunities and information on how to verify one's current CME hours/cycle should be promoted.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

d. Research Initiative Update

The Chief Communications Officer informed the Committee that staff are working with a consultant to develop survey questions for both public and professional (licensee) audiences.

Committee recommendation: Direct staff to complete survey questions for review and discussion at the September Committee meeting.

Board action: Accept Committee recommendation. Direct staff to complete survey questions for review and discussion at the September Committee meeting.

New Business

a. Prescribing CME Grant

The Board recently successfully applied for a grant with Wake Area Health Education Center (AHEC) that will enable to the Board to develop a for-credit CME program. The program will include a webinar that covers current opioid prescribing guidelines. Dr. Murphy has agreed to serve as the webinar presenter. The program would also encompass a series of town hall meetings/panel discussions on opioids to be presented at select locations around NC.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

b. Surgeon General Visit Update

NCMB has been working with other interested parties to invite U.S. Surgeon General Vivek Murthy, MD, to come to NC to present on opioid prescribing. Staff have confirmed

that Dr. Murthy is unavailable on the requested date. Staff members are working to request that he present a keynote address at a high value meeting on responsible opioid prescribing by the end of this year.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

c. Mandatory CSRS registration/promotion of NCMB registration portal

The 2016-2017 state budget appropriations bill included a provision that will eventually make it mandatory for all controlled substance prescribers to register for the NC Controlled Substances Reporting System. The Communications Department will communicate this pending requirement broadly, in the Forum, on the website and via social media. A Forum article highlighting NCMB's streamlined, online registration portal for CSRS is planned for the Summer (August 2016) issue.

Committee recommendation: Accept at information.

Board action: Accept Committee recommendation. Accept as information

ADJOURNMENT

This meeting was adjourned at 11:30 a.m., July 22, 2016.

Timothy E. Lietz, MD
Secretary/Treasurer

APPENDIX A

The Physician-patient Relationship

The duty of the physician is to provide competent, compassionate, and economically prudent care to all his or her patients. Having assumed care of a patient, the physician may not neglect that patient nor fail for any reason to prescribe the full care that patient requires in accord with the standards of acceptable medical practice. Further, it is the Board's position that it is unethical for a physician to allow financial incentives or contractual ties of any kind to adversely affect his or her medical judgment or patient care.

Therefore, it is the position of the North Carolina Medical Board that any act by a physician that violates or may violate the trust a patient places in the physician places the relationship between physician and patient at risk. This is true whether such an act is entirely self-determined or the result of the physician's contractual relationship with a health care entity. *The Board believes the interests and health of the people of North Carolina are best served when the physician-patient relationship remains inviolate.* The physician who puts the physician-patient relationship at risk also puts his or her relationship with the Board in jeopardy.

Elements of the Physician-Patient Relationship

The North Carolina Medical Board licenses physicians as a part of regulating the practice of medicine in this state. Receiving a license to practice medicine grants the physician privileges and imposes great responsibilities. The people of North Carolina expect a licensed physician to be competent and worthy of their trust. As patients, they come to the physician in a vulnerable condition, believing the physician has knowledge and skill that will be used for their benefit.

Patient trust is fundamental to the relationship thus established. It requires that:

- there be adequate communication between the physician and the patient;
- the physician report all significant findings to the patient or the patient's legally designated surrogate/guardian/personal representative;
- there be no conflict of interest between the patient and the physician or third parties;
- personal details of the patient's life shared with the physician be held in confidence;
- the physician maintain professional knowledge and skills;
- there be respect for the patient's autonomy;
- the physician be compassionate;
- the physician respect the patient's right to request further restrictions on medical information disclosure and to request alternative communications;
- the physician be an advocate for needed medical care, even at the expense of the physician's personal interests; and
- the physician provides neither more nor less than the medical problem requires.

The Board believes the interests and health of the people of North Carolina are best served when the physician-patient relationship, founded on patient trust, is considered sacred, and when the elements crucial to that relationship and to that trust—communication, patient primacy, confidentiality, competence, patient autonomy, compassion, selflessness, appropriate care—are foremost in the hearts, minds, and actions of the physicians licensed by the Board.

This same fundamental physician-patient relationship also applies to all licensees.

Termination of the Physician-Patient Relationship

The Board recognizes the physician's right to choose patients and to terminate the professional relationship with them when he or she believes it is best to do so. That being understood, the Board maintains that termination of the physician-patient relationship must be done in compliance with the physician's obligation to support continuity of care for the patient.

The decision to terminate the relationship must be made by the physician personally. Further, termination must be accompanied by appropriate written notice given by the physician to the patient

or the patient's representative sufficiently far in advance (at least 30 days) to allow other medical care to be secured. A copy of such notification is to be included in the medical record. Should the physician be a member of a group, the notice of termination must state clearly whether the termination involves only the individual physician or includes other members of the group. In the latter case, those members of the group joining in the termination must be designated. It is advisable that the notice of termination also include instructions for transfer of or access to the patient's medical records.

(Adopted July 1995) (Amended July 1998, January 2000, March 2002, August 2003, September 2006, July 2012) (Reviewed May 2016)

Medical Testimony

The Board recognizes that medical testimony is vital to the administration of justice in both judicial and administrative proceedings. In order to provide further guidance to those licensees called upon to testify, the Board adopts and endorses the AMA Code of Medical Ethics Opinion 9.07 entitled "Medical Testimony."¹ In addition to AMA Ethics Opinion 9.07, the Board provides the following guidelines to those licensees testifying as medical experts:

- Licensee expert witnesses are expected to be impartial and should not adopt a position as an advocate or partisan in the legal proceedings.
- The licensee expert witness should review all the relevant medical information in the case and testify to its content fairly, honestly, and in a balanced manner. In addition, the licensee expert witness may be called upon to draw an inference or an opinion based on evidence presented in the case. In doing so, the licensee expert witness should apply the same standards of fairness and honesty.
- The licensee expert witness is ethically and legally obligated to tell the truth. The licensee expert witness should be aware that failure to provide truthful testimony constitutes unprofessional conduct and may expose the licensee expert witness to disciplinary action by the Board pursuant to N.C. Gen Stat. § 90-14(a)(6).

¹ The language of AMA Code of Medical Ethics Opinion 9.07 provides:

In various legal and administrative proceedings, medical evidence is critical. As citizens and as professionals with specialized knowledge and experience, physicians have an obligation to assist in the administration of justice.

When a legal claim pertains to a patient the physician has treated, the physician must hold the patient's medical interests paramount, including the confidentiality of the patient's health information, unless the physician is authorized or legally compelled to disclose the information.

Physicians who serve as fact witnesses must deliver honest testimony. This requires that they engage in continuous self-examination to ensure that their testimony represents the facts of the case. When treating physicians are called upon to testify in matters that could adversely impact their patients' medical interests, they should decline to testify unless the patient consents or unless ordered to do so by legally constituted authority. If, as a result of legal proceedings, the patient and the physician are placed in adversarial positions it may be appropriate for a treating physician to transfer the care of the patient to another physician.

When physicians choose to provide expert testimony, they should have recent and substantive experience or knowledge in the area in which they testify, and be committed to evaluating cases objectively and to providing an independent opinion. Their testimony should reflect current scientific thought and standards of care that have gained acceptance among

peers in the relevant field. If a medical witness knowingly provides testimony based on a theory not widely accepted in the profession, the witness should characterize the theory as such. Also, testimony pertinent to a standard of care must consider standards that prevailed at the time the event under review occurred.

All physicians must accurately represent their qualifications and must testify honestly. Physician testimony must not be influenced by financial compensation; for example, it is unethical for a physician to accept compensation that is contingent upon the outcome of litigation.

Organized medicine, including state and specialty societies, and medical licensing boards can help maintain high standards for medical witnesses by assessing claims of false or misleading testimony and issuing disciplinary sanctions as appropriate. (II, IV, V, VII) Issued December 2004 based on the report "Medical Testimony," adopted June 2004.

(Adopted March 2008)(Amended September 2012)

Advanced Directives and Patient Autonomy

Licensees must be aware that North Carolina law specifically recognizes the individual's right to a peaceful and natural death. NC Gen Stat § 90-320 (a) (2007) reads:

The General Assembly recognizes as a matter of public policy that an individual's rights include the right to a peaceful and natural death and that a patient or the patient's representative has the fundamental right to control the decisions relating to the rendering of the patient's own medical care, including the decision to have life-prolonging measures withheld or withdrawn in instances of a terminal condition.

Licensees must also be aware that North Carolina law empowers any adult individual with capacity to make a Health Care Power of Attorney (N.C. Gen. Stat. § 32A-17 (2007)) and stipulates that, when a patient lacks understanding or capacity to make or communicate health care decisions, the instructions of a duly appointed health care agent are to be taken as those of the patient unless evidence to the contrary is available (N.C. Gen. Stat. § 32A- 24(b)(2007)).

It is the position of the North Carolina Medical Board that it is in the best interest of the patient and of the licensee/patient relationship to encourage patients to complete or authorize documents that express their wishes for the kind of care they desire at the end of their lives. Licensees should encourage their patients to appoint a health care agent to act through the execution of a Health Care Power of Attorney and to provide documentation of the appointment to the responsible licensee(s). Further, licensees should provide full information to their patients in order to enable those patients to make informed and intelligent decisions preferably prior to a terminal illness. The Board also encourages the use of portable licensee orders to improve the communication of the patient's wishes for treatment at the end of life from one care setting to another.

It is also the position of the Board that licensees are ethically obligated to follow the wishes of the terminally ill or incurable patient as expressed by and properly documented in a declaration of a desire for a natural death; however, when the wishes of a patient are contrary to what a licensee believes in good conscience to be appropriate care, the licensee may withdraw from the case once continuity of care is assured.

It is also the position of the Board that withholding or withdrawal of life-prolonging measures is in no manner to be construed as permitting diminution of nursing care, relief of pain, or any other care that may provide comfort for the patient.

(Adopted July 1993)(Amended October 2012)

Position Statement Review tracking chart:

POSITION STATEMENT	ADOPTED	SCHEDULED FOR REVIEW	LAST REVISED/ REVIEWED/ ADOPTED	REVISED/ REVIEWED	REVISED/ REVIEWED	REVISED/ REVIEWED	REVISED/ REVIEWED
Medical Testimony	Jan-97	Jul-16	Jul-12	Sep-06			
Advance Directives and Patient Autonomy	Mar-08	Jul-16	Sep-12	Mar-08			
End-of-Life Responsibilities and Palliative Care	Jul-93		Nov-12	Mar-08	May-96		
Drug Overdose Prevention	Oct-99		Jan-13	Mar-08	May-07		
Professional Use of Social Media	Sep-08		Mar-13	Sep-08			
The Treatment of Obesity	Mar-13		Mar-13				
Contact With Patients Before Prescribing	Oct-87		May-13	Nov-10	Jan-05	Mar-96	
Medical Record Documentation	Nov-99		May-13	Jul-10	Feb-01		
Retention of Medical Records	May-94		May-13	May-09	May-96		
Capital Punishment	May-98		Jul-13	May-09			
Professional Obligations pertaining to incompetence, impairment, and unethical conduct of healthcare providers	Jan-07		Jul-13	Jul-09			
Unethical Agreements in Complaint Settlements	Nov-98		Sept-13	Mar-10	Nov-98		
Guidelines for Avoiding Misunderstandings During Physical Examinations	Nov-93		Sept-13	Mar-10	May-96		
Departures from or Closings of Medical	May-91		Jan-14	Jul-10	Oct-02	Feb-01	Jan-01
Policy for the Use of Controlled Substances for the Treatment of Pain	Jan-00		May-13	Jul-09	Aug-03		
Access to Physician Records	Sep-96		May-14	Jan-13	Sep-08	Jul-05	
Medical Supervisor-Trainee Relationship	Nov-93		May-14	Sep-10	Aug-03	Mar-02	Sep-97
Advertising and Publicity	Apr-04		Jul-14	Nov-10	Apr-04		
Telemedicine	Nov-99		Aug-14	Nov-10	Sep-05	Mar-01	
Medical, Nursing, Pharmacy Boards: Joint Statement on Pain Management in End-of-Life Care	May-10		Nov-14	May-10			
Writing of Prescriptions	Oct-99		Nov-14	Jan-11	Oct-99		
HIV/HBV Infected Health Care Workers	May-91		Jan-15	Mar-11	Mar-05	Jul-02	Mar-02
Laser Surgery	Nov-92		Mar-15	Jan-11	Jan-05	May-96	
Sale of Goods From Physician Offices	Jul-99		Mar-15	Jul-05	Jul-05	Aug-02	Mar-02
Competence and Reentry to the Active Practice of	Mar-01		Mar-15	May-11	Mar-06		

Medicine							
Prescribing Controlled Substances for Other Than Valid Medical or Therapeutic Purposes, with Particular Reference to Substances or Preparations with Anabolic Properties	Jul-06		May-15	Jul-06	May-15		
Referral Fees and Fee Splitting	Jul-07		Sep-12	Jul-07	Sept-15		
Physician Supervision of Other Licensed Health Care Practitioners	Jul-07		Nov-15				
Self- Treatment and Treatment of Family Members and Others With Whom Significant Emotional Relationships Exist	Nov-93		Nov-15	Jul-06	May-96		
Availability of Physicians to Their Patients	May-91		Jan-16	Sep-05	Mar-02	May-00	May 96
Office-Based Procedures	Sep-00	Mar-16	May-11	Jan-03			
Sexual Exploitation of Patients	Jul-93	Mar-16	May-12	Nov-11	Jul-06	Oct-03	Jan-01
Care of the Patient Undergoing Surgery or Other Invasive Procedure	May-91	Mar-16	May-12	Sep-06	Jan-01	Apr-96	
The Physician-Patient Relationship	Sep-91	May-16	Jul-12	Sep-06	Mar-01		
The Retired Physician	Jul-95	May-16	Jul-12	Sep-06	Aug-03	Mar-02	Jan-00