

# MINUTES



**March 14 – 15, 2018**

**1203 Front Street  
Raleigh, North Carolina**

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held March 14-15, 2018.

The March 2018 meeting of the North Carolina Medical Board was held at 1203 Front Street, Raleigh, NC 27609. Timothy E. Lietz, MD, President, called the meeting to order. Board members in attendance were: Barbara E. Walker, DO, President-Elect; Bryant A. Murphy, MD, Secretary/Treasurer; Eleanor E. Greene, MD, Immediate Past-President; Mr. A. Wayne Holloman; Debra A. Bolick, MD; Judge Ralph A. Walker, JD; Venkata R. Jonnalagadda, MD; Mr. Shawn P. Parker, JD; Ms. Jerri L. Patterson, NP; Ms. Varnell D. McDonald-Fletcher, PA-C; John W. Rusher, MD; and Michaux R. Kilpatrick, MD.

### **Presidential Remarks**

Dr. Lietz 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.

New Board Special Projects Manager was introduced by the Chief Executive Officer.

The Board's Communications Director gave an overview of the NCMB's 2017 Annual Report.

Dr. Eleanor Greene gave a brief report of the Center for Personalized Education for Physicians (CPEP) Learning Summit.

The Board's Chief Legal Officer gave a debriefing of the training related to trauma and the brain and how that information relates to professional sexual misconduct cases investigated by the Board.

### **Minutes Approval**

A motion passed to approve the January 15-17, 2018 Board Meeting minutes. There was not a Hearing Meeting in February, therefore, there are no minutes from February to approve.

### **Presentation**

The Board's Chief Legal Officer introduced Dr. Amy Hawkins, ND, President of the North Carolina Association of Naturopathic Physicians (NCANP), who, along with two of her colleagues and Senator Joyce Krawiec of the North Carolina General Assembly, gave a presentation on naturopathic medicine and the licensing of naturopathic physicians.

### **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 PHP Compliance Committee report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

Dr. Debra Bolick, member of the North Carolina Medical Board, gave a report regarding the NCPHP Board of Directors meeting.

### **NCMB ATTORNEY'S REPORT**

The Board met with internal and external legal counsel on Thursday, March 15, 2018, to receive information and advice.

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.

The Board received reports and legal advice from internal and external legal counsel regarding various matters. The specifics of this report are not included because these matters are not public information.

A motion was passed to return to open session.

Mr. Brian L. Blankenship, Deputy General Counsel and Mr. Thomas W. Mansfield, Chief Legal Officer, presented the open session portions of the Attorney's Report regarding the schedule for upcoming hearings, rulemaking activity and statistics regarding work performed by the Board's attorneys since the last Attorney's Report.

Senior Board Attorney Marcus Jimison presented and explained a "motions guide" reference document pertaining to parliamentary procedures on how to conduct board business.

The Board provided feedback to Mr. Mansfield about training from Justice 3D it had received in January 2018 regarding current scientific research in how to understand and interact with victims of sexual trauma when investigating and prosecuting cases of alleged professional sexual misconduct.

The Board received a report from Mr. Blankenship regarding telephone interviews he participated in with a major newspaper related to two recent NCMB enforcement actions reporters had identified in follow-up to a news story it had previously published.

The Board discussed with Mr. Mansfield a presentation given to the Board earlier in the day by the North Carolina Association of Naturopathic Physicians and Senator Joyce Krawiec of the North Carolina General Assembly regarding the potential licensing of naturopathic physicians.

### **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.

D'Alessio, Thomas Louis, MD

Public Letter of Concern executed 02/05/2018

Davis, Dantre, PA

Entry of Revocation executed 01/23/2018

Dehgan, Robert Bahman, MD

Findings of Fact, Conclusions of Law, and Order of Discipline Executed 01/23/2018

Dimkpa, Okechukwu, MD

Consent Order executed 02/02/2018

Early, Ira Gordon, MD

Consent Order executed 02/01/2018

Franczak, Jenny Elizabeth, MD

Public Letter of Concern executed 02/28/2018

Freeman, Andrew Miller, DO

Non-Disciplinary Consent Order executed 01/26/2018

Froelich, Mary E, MD

Relief of Non-Disciplinary Consent Order Obligations executed 02/16/2018

Hall, Brent Dwayne, MD

Interim Public Non-Practice Agreement executed 02/21/2018

Haynes, Gregory Delano, MD

Public Letter of Concern executed 02/28/2018

Hower, David, Kemp, MD

Consent Order executed 01/03/2018

Kihm, John Turner, MD

Public Letter of Concern executed 02/01/2018

Lowe, James Richard, MD

Consent Order executed 01/24/2018

McConnell, Matthew Wells, MD

Consent Order executed 02/01/2018

McCutchen, William, DO  
Entry of Revocation executed 02/28/2018

Rampona, Douglas Mercer, MD  
Consent Order executed 01/08/2018

Robertson, Vida Barnwell, MD  
Non-Disciplinary Consent Order executed 01/08/2018

Sappington, John Shannon, MD  
Consent Order executed 01/03/2018

Schnyder, Drew David, MD  
Amended Non-Disciplinary Consent Order executed 02/02/2018

Shanton, Gregory Damon, PA  
Findings of Fact, Conclusions of Law, and Final Order executed 01/26/2018

Smith, Kathleen Jeanne, MD  
Public Letter of Concern executed 01/12/2018

Tebeje, Legesse Fulla, MD  
Public Letter of Concern executed 02/13/2018

Wright, Robin Diane, MD  
Public Letter of Concern executed 02/15/2018

Yagger, Scott David, DO  
Public Letter of Concern executed 01/25/2018

### **NCMB Committee Reports**

### **EXECUTIVE COMMITTEE REPORT**

Members present were: Timothy E. Lietz, MD, Chairperson; Barbara E. Walker, DO; Bryant A. Murphy, MD; Eleanor E. Greene, MD; and A. Wayne Holloman.

#### Strategic Plan

a. 2018 Strategic Priorities Update

The Committee deferred this matter due to time constraints.

Committee Recommendation: Defer to full Board.

Board Action: Deferred due to time constraints.

## Financial Statements

### a. Monthly Accounting – December 2017 and January 2018

The Committee reviewed the compiled financial statements for January and February 2018.

Committee Recommendation: Accept the financial statements as reported.

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

### b. Investment Account Statements – January and February 2018.

The Committee reviewed the investment statements for January and February 2018.

Committee Recommendation: Accept as the investment statement as reported.

Board Action: Accept Committee recommendation. Accept investment statement as reported.

## Old Business

### a. Medical Board Bylaws

At the January meeting, the Board reviewed and discussed proposed changes to its bylaws to further define what constitutes a quorum and to expand the authority and duties of the President among other things. Per Article VI, Section 3 of the bylaws, the Board received a 30-day notice of the proposed changes.

Committee Recommendation: Approve proposed changes to the bylaws (two-thirds (2/3) of the total membership of the Board must approve).

Board Action: Accept Committee recommendation.

### b. Building Update

At the November 2017 meeting, the Board directed staff to update prior research regarding building/space options and report back to the Committee. HH Architecture met with the Committee and gave a report on the condition of the Board's building and the estimated cost to renovate it. In addition, Rich Commercial Realty gave a report comparing the costs to (1) renovate the building, (2) purchase a lot and build a larger office, and (3) purchase an existing (larger) office building and renovate it. After receiving these reports, the Committee believes it has reliable information regarding option (1) but needs more information regarding options (2) and (3).

Committee Recommendation: Continue to study options (2) and (3) and report back at the May 2018 meeting.

Board Action: Accept Committee recommendation. Continue to study options (2) and (3) and report back at the May 2018 meeting.

## New Business

### a. January Board Meeting Dates

Staff recommends the January Board meeting begin on the fourth Wednesday of the month instead of the third Wednesday of the month due to the challenges of preparing and disseminating the Board Book meeting materials the week following the Christmas and New Year's Day holidays.

Committee Recommendation: Beginning in 2019, schedule the January Board meetings to begin on the fourth Wednesday of the month.

Board Action: Accept Committee recommendation. Beginning in 2019, schedule the January Board meetings to begin on the fourth Wednesday of the month.

### b. Operations Associate Position

Staff recommends creating a new Operations Associate position in the Operations Section to help with the increased workload.

Committee Recommendation: Amend the budget to create a new Operations Associate position, effective immediately.

Board Action: Accept Committee recommendation and amend the budget to create the new Operations Associate position, effective immediately.

## **POLICY COMMITTEE REPORT**

Members present were: Shawn P. Parker, JD, Chairperson; Debra A. Bolick, MD; Ralph A. Walker, J.D.; Jerri L. Patterson, NP; and Michaux R. Kilpatrick, MD.

### Old Business:

#### a. Retention of Medical Records

During the Committee meeting, the Committee reviewed two proposed versions of the position statement. The first was a condensed version of the previously proposed position statement with focus on patient interests. The Committee then reviewed the previously proposed position statement with the minor changes requested by the full Board at the January 2018 meeting. Staff addressed the conversation with the Virginia Board regarding their retention regulation and summarized a recent conversation with representatives of

Medical Mutual. It was noted that during the call with Medical Mutual, they stated that they would be in favor of the Board providing a finite number regarding the number of years records should be retained. The Committee discussed whether there is a need to solicit feedback from the stakeholders at this time.

The Committee agreed that they favor the condensed version of the proposed position statement. The Committee initially voted to accept the condensed version of the position statement. After later discussion, the motion to accept the condensed version of the position statement was rescinded in favor of forming a workgroup to develop a composite position statement that combines relevant position statements pertaining to medical records.

Committee Recommendation: Assign Dr. Bolick, Dr. Kilpatrick, and Mr. Brosius the task of drafting a composite position statement that combines relevant position statements pertaining to medical records. Bring back for review and consideration at the July 2018 Board meeting.

Board Action: Accept Committee recommendation. Assign Dr. Bolick, Dr. Kilpatrick, and Mr. Brosius the task of drafting a composite position statement that combines relevant position statements pertaining to medical records. Bring back for review and consideration at the July 2018 Board meeting.

b. Departures from or Closings of Medical Practices (Appendix A)

During the Committee meeting, staff highlighted the proposed changes to the position statement. Staff also provided a summary of the Health Information Exchange. The revised position statement was favorably reviewed.

Committee Recommendation: Accept proposed position statement.

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

New Business:

a. Access to Physician Records

The Committee discussed the idea of combining "Access to Physician Records" and "Retention of Medical Records" into one position statement and whether to form a workgroup to develop a composite position statement that combines relevant position statements pertaining to medical records. Dr. Bolick, Dr. Kilpatrick, and Mr. Brosius were assigned as a workgroup to review the relevant position statements pertaining to medical records and return with a composite position statement at the July 2018 Board meeting.

Committee Recommendation: Assign Dr. Bolick, Dr. Kilpatrick, and Mr. Brosius the task of drafting a composite position statement that combines relevant position statements pertaining to medical records. Bring back for review and consideration at the July 2018 Board meeting.

Board Action: Accept Committee recommendation. Assign Dr. Bolick, Dr. Kilpatrick, and Mr. Brosius the task of drafting a composite position statement that combines relevant position statements pertaining to medical records. Bring back for review and consideration at the July 2018 Board meeting.

Position Statement Review Tracking Chart:

- a. Committee Recommendation: Review “Medical Supervisor-Trainee Relationship” and “Advertising and Publicity” as new business at the May 2018 Board meeting. Bring back “Retention of Medical Records” and “Access to Physician Records” at the July 2018 Board meeting.

Board Action: Accept Committee recommendation. Review “Medical Supervisor-Trainee Relationship” and “Advertising and Publicity” as new business at the May 2018 Board meeting. Bring back “Retention of Medical Records” and “Access to Physician Records” at the July 2018 Board meeting.

Other:

- a. The Committee recently received an inquiry asking for clarity as to the legal effect of the position statements on the Board’s licensees. The individual referenced that each of the Board of Nursing’s position statements contains a statement that the position statements do not carry the effect of law. The Committee felt a discussion regarding whether to include similar language on the Board’s website was warranted.

Committee Recommendation: Bring back for discussion at the May 2018 Board meeting.

Board Action: Accept Committee recommendation. Bring back for discussion at the May 2018 Board meeting.

- b. Discussion ensued as to whether there were any upcoming new position statements and how new position statement come about.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

**LICENSE COMMITTEE REPORT**

Members present were: Debra A. Bolick MD, Chairperson; Varnell McDonald-Fletcher, PA-C; Venkata R. Jonnalagadda, MD; Ralph A. Walker, JD; and Michaux Kilpatrick, MD.

Open Session:

- a. Guidelines for allowing applicants to withdraw their application

In the past, the Board has not allowed an applicant to withdraw their license application after an adverse licensing decision Board Action unless the Board Action specifically stated, "Allow Withdrawal." The Board has traditionally made this part of a Board Action when it anticipated that the applicant may elect withdrawal as opposed to an adverse licensing decision Board Action (usually denial or other public action with issuance of a license.) However, what has happened, is that cases are being brought back to the Board to request withdrawal that almost certainly would have been permitted if the Board entertained the withdrawal question during the licensing process (i.e. NC license granted with a public letter of concern for an out of state action that has resolved). Staff could not think of an instance where an adverse licensing decision Board Action was brought back to the Board to request withdrawal and it was not permitted. We believe that allowing all applicants to withdraw unless the Board Action specifically states "Do Not Allow Withdrawal" will result in a more efficient use of Board resources and save Board member and staff time.

As an aside, it should be noted that the Board traditionally decided a case should be, "Do Not Allow Withdrawal" when they felt there was a good reason for making the adverse licensing decision Board Action public. An example of this is when it is established without question that an applicant lied on their application.

Committee Recommendation: Permit all license applicants to withdraw their license applications after an adverse licensing decision Board Action (i.e. private letter of concern, fine or public action) unless the Board expressly states, "Do Not Allow Withdrawal" in the licensing Board Action.

Board Action: Accept Committee recommendation. Permit all license applicants to withdraw their license applications after an adverse licensing decision Board Action (i.e. private letter of concern, fine or public action) unless the Board expressly states, "Do Not Allow Withdrawal" in the licensing Board Action.

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.

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

A motion passed to return to open session.

### **ADVANCED PRACTICE PROVIDERS AND ALLIED HEALTH COMMITTEE REPORT**

Members present were: Varnell McDonald-Fletcher, PA-C, Chairperson; John W. Rusher, MD; Jerri L. Patterson, NP; and Ralph A. Walker, JD.

New Business:

a. Physician Assistant Advisory Meeting

The Committee heard a presentation from Robin Hunter-Buskey, PA-C, regarding topics for the PA Forum discussion a FSMB annual meeting.

Committee Recommendation: Receive as information.

Board Action: Accept Committee recommendation. Receive as information.

b. Physician Assistants

Rule 21 NCAC 32S .0212 Prescribing Authority. The committee considered a proposed change to the rule clarifying that prescriptions for controlled substances need to comply with Federal and State regulations.

Committee Recommendation: Approve rule 21 NCAC 32S .0212 Prescribing Authority.

Board Action: Accept Committee recommendation. Approve rule 21 NCAC 32S .0212 Prescribing Authority.

Rule 21 NCAC 32S .0225 Definition of Consultation for Prescribing Controlled Substances. The committee adopted a rule defining "consult" under the STOP Act.

Committee Recommendation: Approve rule 21 NCAC 32S .0225 Definition of Consultation for Prescribing Controlled Substances.

Board Action: Accept Committee recommendation. Approve rule 21 NCAC 32S .0225 Definition of Consultation for Prescribing Controlled Substances.

c. Nurse Practitioners

Rule 21 NCAC 32M .0117 Reporting Criteria. The committee adopted a change to the reporting criteria regarding the safe opioid prescribing initiative.

Committee Recommendation: Approve rule 21 NCAC 32M .0117 Reporting Criteria.

Board Action: Accept Committee recommendation. Approve rule 21 NCAC 32M .0117 Reporting Criteria.

Rule 21 NCAC 32M .0118 Definition of Consultation for Prescribing Controlled Substances. The committee adopted a rule defining "consult" under the STOP Act.

Committee Recommendation: Approve rule 21 NCAC 32M .0118 Definition of Consultation for Prescribing Controlled Substances.

Board Action: Accept Committee recommendation. Approve rule 21 NCAC 32M .0118 Definition of Consultation for Prescribing Controlled Substances.

d. Perfusionist Advisory Committee

The Committee received information that it will need to replace Mercedes Englehart, LP on the Perfusionist Advisory Committee. The Committee stated it will publish a notice of vacancy on the PAC and see applicants to fill the open position.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

e. Midwifery Joint Committee

The Committee interviewed Jason Hildebrand, MD for the open physician position on the Midwifery Committee.

Committee Recommendation: Appoint Dr. Hildebrand to the Midwifery Committee.

Board Action: Accept Committee recommendation. Appoint Dr. Hildebrand to the Midwifery Committee.

f. Nurse Practitioners

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 Advanced Practice Providers and Allied Health 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.

### **DISCIPLINARY (COMPLAINTS) COMMITTEE REPORT**

Members present were: Venkata Jonnalagadda, MD, Chairperson; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Shawn Parker, JD; John W. Rusher, MD; and Barbara E. 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, 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 15 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: Venkata R. Jonnalagadda, MD, Chairperson; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Shawn P. Parker, JD; John W. Rusher, MD; and Barbara E. 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, 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 48 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 (DEPARTMENT of HEALTH and HUMAN SERVICES) (DHHS) COMMITTEE REPORT**

Members present were: Venkata R. Jonnalagadda, MD, Chairperson; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Shawn Parker, JD; John W. Rusher, MD; and Barbara E. Walker, DO.

- a. Rule 21 NCAC 32Y .0101(c) Reporting Criteria DHHS/Controlled Substance Reporting System (CSRS) "Report C"

In January 2017 the Board approved modifications to the rules regarding reports generated by NC DHHS from the CSRS, referred to as Reports A and B. At that same meeting the Board agreed to study the creation of a Report C to be based upon a prescriber meeting at least three of six criteria designed to identify prescribers of concern. Staff had made a report to the Disciplinary Committee and the full Board in November 2017 demonstrating that such a report would identify 22 physicians and physician assistants who might be of concern. Those 22 prescribers met three or more of the six criteria laid out in the proposed rule with a minimum of five patients for each criterion. Only one of the 22 licensees were previously known to the Board.

Since the November 2017 meeting, Board staff have worked with staff from DHHS and Rules Review Commission to produce the draft of the rule for the Board to consider. If the Board approves the draft rule, staff will commence rulemaking.

Committee Recommendation: Approve rule 21 NCAC 32Y .0101(c) REPORTING CRITERIA DHHS/CSRS "Report C"

Board Action: Accept Committee recommendation. Approve the rule 21 NCAC 32Y .0101(c) REPORTING CRITERIA DHHS/CSRS "Report C"

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

A motion passed to return to open session.

### **DISCIPLINARY (INVESTIGATIVE) COMMITTEE REPORT**

Members present were: Venkata R. Jonnalagadda, MD, Chairperson; Varnell D. McDonald-Fletcher, PA-C; Bryant A. Murphy, MD; Shawn Parker, JD; John W. Rusher, MD; and Barbara E. 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, 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-three 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.

### **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.

Eight 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.

### **CONTROLLED SUBSTANCES CONTINUING MEDICAL EDUCATION (CS CME) PLANNING COMMITTEE**

Board Members present were: Jerri L. Patterson, NP, Chairperson; Bryant A. Murphy, MD; and Venkata R. Jonnalagadda, MD.

#### Old Business

- a. Identifying counties for sessions (update)

The Committee reviewed the one remaining panel session that is being planned in Randolph County (likely in Asheboro). Wake Area Health Education Center (AHEC) is searching for a location and is looking at dates in late-May or mid-June. Once this date is set, there will be no additional sessions planned. Including the session in Randolph County, 17 sessions will be conducted in this grant cycle (four additional sessions were held in the last cycle). Currently, there are 10 sessions remaining, including one in Fayetteville on Thursday.

Committee recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. Feedback from sessions to date

Dr. Murphy gave feedback on the session he attended in Weldon, NC (Halifax County). He indicated the session went smoothly and was well attended with a relatively full room (54 attendees). There were only two presenters, but the session went well. He indicated the panel could have benefited from an additional speaker (typically there is a moderator and two speakers). The audience response program took a little bit of time to get everyone logged in, but otherwise worked well. The local AHEC staff member onsite was excellent and was very attentive to those in attendance. The Board's Chief Investigative Officer was also in attendance, handling the Controlled Substances Reporting System (CSRS) registration desk. The Board's Chief Communications Officer explained how difficult it was to recruit speakers for this location. One speaker traveled from Apex to serve on the session and the other was a local family physician. Others either didn't respond or were not available, which has been unusual in the past year of recruiting speakers. Attendance was lower than the target of 100 attendees due to the low volume of providers in the area.

The Committee reviewed feedback from the January session in Lumberton, which was generally positive. The Committee also reviewed attendance from the sessions held to date as well as registrations for the upcoming sessions. Upcoming sessions in Fayetteville and Morehead City are expected to exceed 100 attendees.

Committee recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

c. Board Member attendance/participation at 2018 sessions

The Committee reviewed the list of Board Members who have volunteered to serve as NCMB representative at upcoming sessions. There are still some sessions that need an NCMB representative. The Committee recommended re-distributing the sign-up list after the March meeting.

The Chief Communications Officer remarked that the investigators continue to serve in an invaluable capacity by managing the CSRS registration table and also serving as NCMB representatives when Board members are not available. By having a representative present, it provides increased benefit to the attendees and additional opportunity to highlight the investment being made in educating prescribers in North Carolina. Attendees appreciate NCMB presence at the event, especially Board Members.

Committee recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

New Business

a. Discuss options for 'wrap up' of statewide opioid prescribing training initiative

The Committee previously recommended researching the option of recording a session to post as a webinar once the statewide training is completed. The Chief Communications Officer reported that Wake AHEC was interested in pursuing this option and has some grant funding available to engage a professional videography company. Wake AHEC has spoken with a vendor, who recommended recording a live session. The Committee would like to explore recording a session that is in a controlled setting so panelists can re-record to correct any errors, if needed. This will remove some of the unexpected circumstances of a misstatement or other situations that should not be captured on video.

Wake AHEC has expressed an interest in recording the session in one-hour blocks so viewers can have the option of two one-hour modules. Wake AHEC would also like to consider re-recording the original webinar to update the content and improve the quality of the recording.

Dr. Jonnalagadda inquired as to whether the opioid prescribing training program is going to be part of a panel at Federation of State Medical Boards (FSMB). The Committee discussed inquiring with members of the FSMB Education Committee regarding the training as a possible panel session in 2019.

The Committee discussed the need for additional training for other prescribing issues, including benzodiazepines, which is widely believed to be the next wave of controlled substances being misused and poorly prescribed. The Chief Medical Officer suggested a webinar on benzodiazepines, similar to the existing webinar on the CDC Guideline. Dr. Jonnalagadda suggested benzodiazepines as a possible future topic for the President's Message in the Forum.

Committee recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

## **OUTREACH COMMITTEE**

The Outreach Committee met on Wednesday, March 14, 2018. Members present were: Barbara E. Walker, DO, Chairperson; Eleanor E. Greene, MD; John W. Rusher, MD; and A. Wayne Holloman.

### Old Business

#### a. Overview of Outreach Activities (Presentations)

The Board's Communications Director summarized professional outreach activities for the year to date. So far, the Board has scheduled nearly 20 speaking engagements to professional audiences. March was an especially busy month with six presentations. Opioids continues to be the most requested topic. The Committee discussed the possibility of developing a Board talk on improving communication with patients, in response to a recent request from a group.

Committee recommendation: Accept as information

Board action: Accept committee recommendation. Accept as information.

b. Update on public presentations to consumer audiences

The committee discussed outreach to the public. NCMB has scheduled 10 talks so far this year, six of which have been presented. The Committee discussed the content presented to public audiences (general Board information, with an emphasis on services such as “Look up a doctor or PA”) and discussed additional audiences the Board might approach. Ideas include college students in health administration, public health and social work, and local law enforcement.

Committee recommendation: Accept as information

Board action: Accept Committee recommendation. Accept as information.

c. Annual report review

The 2017 NCMB Annual Report is done; Discussion/review of the report was deferred until Thursday, March 15, to be presented to the full Board.

## New Business

a. Social media campaign

The Chief Communications Officer gave an overview of the Communications Department’s recent use of online resource page to efficiently provide detailed information and resources on specific topics to NCMB’s public and professional audiences. Resource pages on the Board’s controlled substances CME requirement and opioids initiatives have been viewed more than 5,000 times since January 1st, for example. The Communications Department is exploring resource pages as a way to inform the public about key issues, such as opioids. A recent advertising campaign on Facebook and Twitter highlighted research on non-opioid painkillers, driving nearly 600 visitors to NCMB’s website in a week’s time to view a new patient-oriented resource page.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

b. Public survey and licensee survey

The Chief Communications Officer gave an overview of the 2018 strategic priorities related to obtaining feedback from licensees and the public. NCMB initially surveyed licensees and the public in 2015 to obtain baseline information. This year, the Board will resurvey both audiences. The staff will soon begin work on the licensee survey questions and plans to

complete the licensee survey by the end of June. The public survey is tentatively planned for October 2018.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

### **FSMB ANNUAL MEETING PLANNING COMMITTEE**

Members present were: Timothy E. Lietz, MD, Chairperson; Eleanor E. Greene, MD; A. Wayne Holloman; Venkata R. Jonnalagadda, MD; Varnell D. McDonald-Fletcher, PA-C; Jerri L. Patterson, NP; Michaux R. Kilpatrick, MD; and Janice E. Huff, MD. Members absent: William Walker, MD.

#### Old Business

a. Opening Ceremony

Governor Roy Cooper has been scheduled to speak at the FSMB Opening Ceremony from 10:00 a.m. – 10:15 a.m. The Mayor pro tem of Charlotte, Ms. Julie Eiset, may also speak at the Opening Ceremony.

The US Surgeon General's office notified the NCMB that he is unable to attend this year's event.

Action Item: Shikha Sinha will follow-up with Ms. Kay Taylor at the FSMB regarding "Welcome to North Carolina" comments by the NCMB President, Dr. Timothy Lietz

b. Welcome Reception, Wednesday, April 25, 2018

The Executive Office and Communications Department are designing flyers and signage to place strategically in the hotel to notify and encourage conference attendees to drop by the NC Welcome Reception. The Board will be purchasing token gifts for the attendees.

GL Solutions will be sponsoring our NC Welcome Reception beverages.

c. Dinner at Dr. Lietz's Home, Thursday, April 26, 2018

Transportation will be provided on Thursday from the hotel to Dr. Lietz's house for dinner. The Board will have two bus departure times from the hotel, 6:15 p.m. and 7:15 p.m. along with two return buses, starting around 9:30 p.m.

d. FSMB Board of Directors – candidate Mr. Shawn Parker

Communications Department will give the Board members and staff talking points regarding Mr. Shawn Parker's campaign.

## New Business

### a. National Anthem

The Committee submitted the names of potential singers to FSMB for performing the National Anthem during the opening ceremony.

### b. Invocation

The FSMB Committee will forward the names of potential invocation speakers for the opening ceremony to the NCMB Committee

The Committee members will forward names of potential invocation speakers to the NCMB staff.

### c. Additional Outreach to potential meeting attendees

The Committee members will forward any contact information on Deans of medical schools to the NCMB staff. They also will identify other organizations that might recommend sending attendees to the FSMB Annual Conference.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

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Bryant A. Murphy, MD; Secretary/Treasurer

**Departures from or Closings of Medical Practices:**

Practitioners may have continuing obligations toward patients during and after their departure from or closing of a medical practice. A practitioner's specific obligations will vary depending on several factors including employment or practice partnership status, contractual based obligations, practice venue, and other considerations. Nevertheless, the patient's welfare, autonomy, and continuity of care must be the foremost consideration for all parties involved. Patients should therefore be given reasonable advance notice (at least 30 days) to allow other medical care to be secured. Good continuity of care includes preserving and providing appropriate access to medical records and may include making appropriate referrals. The practitioner(s) and other parties, such as group practices or physician employers, should work cooperatively to ensure requirements for continuity of care and patient autonomy are effectively attended to.

During these times practitioners and other parties involved must consider how their actions affect patients. In particular, practitioners and other parties have the following obligations.

It is the patient's decision from whom to receive care. Therefore, it is the responsibility of all practitioners and other parties to ensure that:

- Patients are notified in a timely fashion of changes in the practice and given the opportunity to seek other medical care, sufficiently far in advance (at least 30 days), to allow other medical care to be secured. The Board does not have specific rules on which patients should receive this notification or how it should be accomplished, but a reasonable option would be to notify active patients the physician has seen within the past 1-2 years. Methods of notification which might be considered include newspaper notices, posting an announcement in public locations in the office, website announcements, front desk flyers, etc. Each medical practice and patient population is unique and the Board would expect practitioners to utilize the most effective means of patient notification for their particular situation.
- Patients should clearly understand they have a choice of health care providers and notice to patients of the departing physician should include an unambiguous statement that patients have a choice of from whom to receive medical care. It is unethical to withhold information upon request of a patient. If the responsibility for notifying patients falls to the departing practitioner rather than to the group or employer there should be no interference in discharge of this responsibility by withholding essential information.
- Patients should be told both how to contact practitioner(s) remaining in practice, and when specifically requested, how to contact departing practitioners.
- Patients are told how to obtain copies of or transfer their medical records and how long their medical records will be available.

Written Policies:

The Board recommends that practitioners and practices prepare written policies regarding the secure maintenance, storage, transfer, data sharing, and retrieval of patient medical records recognizing that separate policies may be necessary for the storage of and access to paper and electronic medical records. Practitioners and practices should notify patients of these policies. At a minimum, the Board recommends that such written policies include:

- A procedure and timeline that describes how the practitioner or practice will notify each patient about (1) a pending practice closure or practitioner departure, (2) how medical records are to be accessed, and (3) how future notices of the location of the practice's medical records will be provided.
- How long medical records will be retained and the procedure by which the practitioner or practice will dispose of unclaimed medical records.
- How the practitioner or practice will respond to requests from patients for copies of or access to their medical records.
- In the event of a practitioner's death or incapacity, how the deceased practitioner's executor, administrator, personal representative, or survivor will notify patients of the location of their medical records, how patients can access those records, and how and when unclaimed medical records will be destroyed after a specified period of time.
- The procedure by which the practitioner or practice will maintain medical record confidentiality and data integrity. Practice transitions are also times when there is increased risk of privacy breaches or inappropriate disclosure. HIPAA rules require that patients must be promptly informed about any security breach or unauthorized disclosure describing what information was breached, what steps patients may take to minimize adverse consequences of inappropriate disclosure of their personal health information placing the interests of patients above those of the physician, medical practice, or institution.

The Board further expects its licensees to comply with all applicable state and federal laws and regulations pertaining to a patient's protected healthcare information.

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\*NOTE: The Board's Position Statement on the Retention of Medical Records applies, even when practices close permanently due to the retirement or death of the practitioner.

Additional Resources: The Board has published a guide to closing a medical practice to assist licensees with meeting their professional obligations.

(Adopted January 2000; Amended August 2003; Amended July 2009; Amended March 2018)