



# **BOARD MEETING MINUTES**

**May 17-19, 2023**

**3127 Smoketree Court  
Raleigh, North Carolina**

**and Virtual**

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held May 17-19, 2023.

The May 17-19, 2023, meeting of the North Carolina Medical Board was held virtual and at 3127 Smoketree Court, Raleigh, NC 27604. Michaux R. Kilpatrick, MD, President, called the meeting to order. Board members in attendance were: Christine M. Khandelwal, DO, President-Elect; Devdutta G. Sangvai, MD, MBA, Secretary/Treasurer; John W. Rusher, MD, JD, Past President; Mr. William M. Brawley; W. Howard Hall, MD; N. Melinda Hill-Price, MD, JD.; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C; Anuradha Rao-Patel, MD; Robert Rich, Jr., MD; David P. Sousa, JD, MBA. Absent were: Sharona Y. Johnson, PhD, FNP-BC

### **PRESIDENTIAL REMARKS**

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

### **ANNOUNCEMENTS and UPDATES**

Dr. Kilpatrick recognized new staff as they were introduced by their perspective manager. She also recognized staff with milestone anniversaries and promotions.

### **PRESENTATION(S)**

Diversity, Equity, & Inclusion training for the Board members and staff was provided by Sneha Thamocharan, PhD.

### **NORTH CAROLINA PHYSICIAN HEALTH PROGRAM REPORTS (NCPHP)**

Dr. Jordan gave the NCPHP Wellness 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.

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

A motion passed to return to open session.

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

Mr. Brian L. Blankenship, Deputy General Counsel and Mr. Thomas W. Mansfield, Chief Legal Officer, gave the Attorney's Report on Friday, May 19th, 2023.

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

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, and/or 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.

Within the closed session:

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

A motion was passed to return to open session.

## **NCMB COMMITTEE REPORTS**

### **Executive Committee Report**

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

#### Financial Update

a. Year-To-Date Financials

The Committee reviewed the following financial reports through March 31, 2023: 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 Update

The Committee reviewed the investment statements for March and April 2023.

Committee Recommendation: Accept the investment statements as reported.

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

c. Semi-annual Report from Investment Advisor

Mr. Len Lopez, Fifth Third Bank, provided an update on the equity and bond markets, and the Board's investment account.

Committee Recommendation. Accept the report as information.

Board Action: Accept the Committee recommendation. Accept the investment account update as reported.

## Old Business

### a. Data Strategy Implementation Plan

At the March 2022 meeting, the Board approved a Data Strategy Plan proposed by Blaze Advisors, now known as Alera Health. At the May 2022 meeting, the Board approved a 12-month Data Strategy Implementation Plan submitted by Blaze Advisors and approved a new Data Analyst position. Work on the Plan was delayed until earlier this year to allow time to hire/onboard a data analyst and for Blaze to complete other projects.

Brian Blankenship, Deputy General Counsel, is managing this project with the assistance of Siobhan Simpson, Data Analyst, and Allen Christian, IS Support Specialist. Mr. Blankenship provided an update. The implementation project is on schedule. The next Board update will be in September.

Committee Recommendation: Accept as information.

Board Action: Accept the Committee recommendation. Accept the data strategy implementation plan update as reported.

## New Business:

### a. Legislative Report

The Committee discussed the following draft legislation:

Uniform Telehealth Act. As proposed, this act would create a registration system for out-of-state providers. It would also update exceptions for consulting with a physician, providing a specialty opinion, and treating a patient the provider has treated within the last year.

Committee Recommendation: The Board neither supports nor opposes this draft legislation at this time. The Board is open to further discussion to amend certain provisions.

Board Action: Accept the Committee recommendation. The Board neither supports nor opposes this draft legislation at this time. The Board is open to further discussion to amend certain provisions.

The Committee also discussed the following introduced bill:

H587/S491. Genetic Counselors Workforce Act. The House Health Committee voted for a Favorable Report on a Committee Substitute on May 16. The Committee Substitute had been negotiated between the Board, stakeholders, and Health Committee members. The Senate version of the bill, S491, does not contain the changes from the Committee Substitute accepted in House Health. Senate Bill 491. Instead, it proposes licensing genetic counselors with independent authority to order genetic testing without physician involvement.

Committee Recommendation: The Board does not oppose H587 in its current form. It opposes S491 in its current form.

Board Action: Accept the Committee recommendation. The Board does not oppose H587 in its current form. It opposes S491 in its current form.

b. Board Retreat

Staff provided an update on the 2023 Board Retreat which will be held August 18 – 20 and the Blockade Runner Hotel in Wrightsville Beach, NC.

Committee Recommendation: Accept the Board retreat update as information.

Board Action: Accept the Committee recommendation. Accept the Board retreat update as information.

### **Policy Committee Report**

Members present were: John W. Rusher, MD, JD; Chairperson; William M. Brawley; W. Howard Hall, MD; Robert L. Rich, Jr., MD; and David P. Sousa, JD, MBA. Members absent: Sharona Y. Johnson, PhD, FNP-BC.

Old Business:

a. 5.1.4. Telemedicine

The Committee reviewed and discussed the comments received from the stakeholders. Based on the Committee's discussion, the Board directed staff to work with Committee members to make additional changes to the position statement and present a revised version for consideration at a later meeting, with the anticipated date of July 2023.

Committee recommendation: Staff and Committee members to make additional changes to the position statement and present a revised version for consideration at a later meeting, with the anticipated date of July 2023.

Board Action: Accept Committee recommendation. Staff and Committee members to make additional changes to the position statement and present a revised version for consideration at a later meeting, with the anticipated date of July 2023.

b. 6.1.4: Clinician Obligation to Complete a Certificate of Death (Appendix A)

The Committee reviewed the revised position statement favorably. The Committee requested staff incorporate one additional change, which was to include language regarding the statutory requirement that death certificates be filed within five days. The Committee agreed that the Board should adopt all changes and publish the revised version of the position statement.

Committee recommendation: Adopt and publish the revised position statement.

Board Action: Accept Committee recommendation. Adopt and publish the revised position statement.

c. 4.1.3: Policy for the Use of Opioids for the Treatment of Pain

In lieu of the FSMB report not being finalized until 2024, the Committee discussed whether to move forward with revisions to the current position statement. The Committee directed staff to collaborate with Committee members and revise the current position statement. Staff will then present a revised version for consideration at a later meeting, with the anticipated date of July 2023. The Committee may consider additional revisions once the FSMB report is finalized (anticipated date of April 2024).

Committee recommendation: Staff and Committee members to revise the current position statement and present a revised version for consideration at a later meeting, with the anticipated date of July 2023.

Board Action: Accept Committee recommendation. Staff and Committee members to revise the current position statement and present a revised version for consideration at a later meeting, with the anticipated date of July 2023.

### **Licensing Committee Report**

Members present were: W. Howard Hall, MD, Chairperson; Miguel Pineiro, PA-C, MHPE; Melinda H. Privette, MD, JD and Robert L. Rich, Jr., 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 License Committee reviewed ten 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**

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

A motion passed to return to open session.

### **Disciplinary (Malpractice) Committee Report**

Members present were: Christine M. Khandelwal, DO (First Chair); Anuradha Rao-Patel, MD (Second Chair); W. Howard Hall, MD; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD; John W. Rusher, MD, JD

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

The Disciplinary (Malpractice) Committee reviewed 74 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: Christine M. Khandelwal, DO (First Chair); Anuradha Rao-Patel, MD (Second Chair); W. Howard Hall, MD; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD; John W. Rusher, MD, JD.

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-

8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Investigative) Committee reviewed 67 investigative cases. A written report was presented for the Board's review. The Board adopted the recommendations and approved the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

### **Disciplinary (Complaints) Committee Report**

Members present were: Christine M. Khandelwal, DO (First Chair); Anuradha Rao-Patel, MD (Second Chair); W. Howard Hall, MD; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD; John W. Rusher, MD, JD

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

The Disciplinary (Complaints) Committee reviewed 37 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 (Compliance) Committee Report**

Members present were: Christine M. Khandelwal, DO (First Chair); Anuradha Rao-Patel, MD (Second Chair); W. Howard Hall, MD; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD; John W. Rusher, MD, JD

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

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

A motion passed to return to open session.

## **Disciplinary (DHHS) Committee Report**

Members present were: Christine M. Khandelwal, DO (First Chair); Anuradha Rao-Patel, MD (Second Chair); W. Howard Hall, MD; Joshua D. Malcolm, JD; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD; John W. Rusher, MD, JD

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

The Disciplinary (DHHS) Committee reviewed 3 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.

## **Investigative Interview Report**

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

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

A motion passed to return to open session.

## **Outreach Committee Report**

Members present were: W. Howard, MD; Chairperson; Miguel A. Pineiro, PA-C, MHPE; N. Melinda Hill-Price, MD, JD and Devdutta G. Sangvai, MD, MBA

Old Business:

### a. Update on presentations

The Communications Director and Chief Administrative and Communications Officer gave an overview of recent and upcoming outreach presentations to professional and public audiences. NCMB is in final talks with East Carolina University's Brody School of Medicine to bring the Regulatory Immersion Series (RIMS) to medical students there. With this development, NCMB has achieved its goal of presenting RIMS at every medical school and every PA program in the state. As NCMB works to schedule repeat RIMS sessions at each program, staff will need

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continued support from current and former Board Members and NCMB staff. NCMB is continuing to pursue opportunities to present to professional audiences outside of RIMS. It was suggested that staff reach out to the NC Academy of Family Physicians, which has a conference this November. On the public outreach front, NCMB had a successful engagement staffing a table at an employee health fair hosted by GE Aerospace, interacting with about 120 individuals. Staff are working on reaching out to new audiences, including residents at assisted living facilities and retirement communities, with assistance from NCMB's medical staff.

Committee recommendation: Accept as information.

Board Action: Accept committee recommendation. Accept as information.

b. Wellness and Burnout Updates i. Review of April Consortium Meeting

The Chief Medical Officer gave a report on matters discussed at the April meeting of the NC Consortium on Physician Resilience and Wellness (Consortium) the Consortium elected a Steering Committee that will shape the group's priorities and support the Consortium's work going forward. The Steering Committee advised prioritizing a focus on North Carolina health system's credentialing process to encourage standardized questions that reflect on current competence only. The goal is to inspire health systems to remove intrusive questions about mental health from its credentialing forms and processes. These questions are known to interfere with seeking and receiving necessary health services afforded to the public. The recommendation will be formally discussed at the Consortium's next meeting in June. Also in June, the Consortium will consider the matters of workplace violence and the mentoring/coaching program operating at UNC.

Committee recommendation: Accept as information.

Board Action: Accept committee recommendation. Accept as information.

c. Licensee Survey Update

The Chief Administrative and Communications Officer reported that NCMB has deployed its licensee survey, sending both an informational notice and an invitation to complete the survey, to a sample of approximately 10,000 licensees. Results will be compiled and analyzed and reported to the Board at the July Board Meeting.

Committee recommendation: Accept as information.

Board Action: Accept committee recommendation. Accept as information.

New Business:

a. Lorna Breen Pledge

The Chief Medical Officer informed the Committee that NCMB has received notification from the Lorna Breen Heroes Foundation that NCMB has been designated as a Wellbeing First Champion, which recognizes that NCMB has removed intrusion mental health questions from its application and renewal forms. This is an annual designation that can be renewed each year. NCMB's Communications team is reviewing a toolkit provided by the Lorna Breen

Foundation and will determine how best to share NCMB's designation with licensees, stakeholders and the public.

Committee recommendation: Accept as information.

Board Action: Accept committee recommendation. Accept as information.

b. PA milestone recognition

The Committee recognized two representatives from the NC Academy of Physician Assistants (NCAPA), NCAPA President Meg Beal, PA-C, and NCAPA Chief Executive Officer Emily Adams. Board President Michaux Kilpatrick, MD, PhD, presented them with an honorary resolution commemorating the PA profession surpassing 10,000 licensees. NCMB's total licensed PA population has more than doubled over the last 10 years alone.

Committee recommendation: Accept as information.

Board Action: Accept committee recommendation. Accept as information.

c. Misc. Other Outreach Activities

- i. Annual report video
- ii. Child abuse prevention awareness month
- iii. Public survey

The Committee watched a short video promoting the 2020 NCMB Annual Report. The video is a tool that helps to increase the reach of the Annual Report, both by attracting attention from individuals who would otherwise not read the report, and by directing individuals to the full report posted on NCMB's website. The Communications Director summarized NCMB's efforts to participate in National Child Abuse Prevention month in April by promoting awareness and resources that can help licensees recognize, respond and report suspected child neglect and abuse. Finally, the Chief Administrative and Communications Officer reported to the Committee that NCMB will be completing another public survey, the first NCMB has conducted since 2018. In 2018, members of the public were asked questions related to telemedicine, experiences with the healthcare system, treatment for chronic pain, and topics of interest for future engagement with NCMB. The Chief Administrative and Communications Officer will reach out to Board members to solicit their ideas on topics to include in the public survey.

Committee recommendation: Accept as information.

Board Action: Accept committee recommendation. Accept as information.

ADJOURNMENT

The Medical Board adjourned at 1:10 p.m. on Friday, March 17, 2023

The next meeting of the Medical Board is scheduled for May 17-19, 2023



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Devdutta G. Sangvai, MD, MBA, Secretary/Treasure

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#### 6.1.4: Clinician Obligation to Complete a Certificate of Death

North Carolina law requires that when a death does not meet criteria for jurisdiction by the Medical Examiner ([N.C. Gen. Stat. § 130A-383](#)) the death certificate shall be completed and signed within five days by the physician, physician assistant, or nurse practitioner (“clinician”) in charge of the patient’s care for the illness or condition which resulted in death. Delaying the completion of a death certificate or refusing to sign a death certificate makes an already difficult time for surviving family members and other loved ones even more so and may result in unnecessary complications with funeral arrangements, estate proceedings, and other legal and personal matters.

The Board recognizes that clinicians may not be comfortable with uncertainty, however, a clinician should not decline to sign a death certificate simply because the exact anatomic or physiologic cause of death is uncertain. Although [N.C. Gen. Stat. § 130A 115\(c\)](#) requires that the practitioner “state the cause of death in *definite and precise terms*” (emphasis added), it is the Board’s interpretation of this statute that the licensee should employ appropriate terminology and nomenclature with as much accuracy as is possible; however, it is also recognized by the Board that providing the most complete, definitive, and conclusive cause of death may, under many circumstances, not be possible. Clinicians are not expected or required to establish beyond a doubt the specific cause of death but should exercise their best judgment under the circumstances using available information.

Review of the patient’s medical history should provide adequate information to state a reasonable or likely cause of death. Examples of acceptable causes of death may include arteriosclerotic cardiovascular disease, hypertension, Alzheimer’s disease, or complications of diabetes mellitus. Furthermore, it is acceptable to use “probable” or “possible” to identify a suspected cause of death. In the end, a clinician’s determination of the cause of death is a medical opinion and is based on the best available medical evidence available at the time the certificate is being signed, which may include the cumulative effects of multiple risk factors or a previously known disease process. Use of standard nomenclature without abbreviations is encouraged.

Under the law, the Board cannot pursue disciplinary action against clinicians who complete death certificates in good faith and to the best of their ability in accord with the information available — even if that information is limited. The law also grants immunity from civil liability to clinicians completing death certificates in good faith. ([N.C. Gen. Stat. § 130A-115\(f\)](#)) The clinician completing the death certificate is only asked to provide a cause of death “to the best of [his or her] knowledge,” not to a medical certainty.

The Board also recognizes that clinicians may believe, for a variety of reasons, they were not “in charge of the patient’s care for the illness or condition which resulted in death.” This is often because death has occurred weeks or months after the last contact with the patient. The Board encourages clinicians to undertake completion of death certificates for patients (current, recent, or remote) under these circumstances as a professional, ethical, civic, and public health responsibility. Failure or refusal to complete a death certificate, when the licensee clearly has a responsibility to do so, could lead the Board to consider disciplinary action.

Licensees should perform this final aspect of patient care promptly and with consideration for the decedent and his or her loved ones. Questions or concerns by clinicians regarding medical examiner responsibilities in a particular case or for advice on the completion of a death certificate may be discussed in a collegial and professional manner with the county medical examiner or Chief Medical Examiner’s office. Legal requirements regarding completion of a death certificate may be found at

[N.C. Gen. Stat. § 130A-115](#). Additional guidance on the proper completion of death certificates is available in the CDC's "[Physicians' Handbook on Medical Certification of Death](#)".

All death certificates must be filed electronically with the Office of Vital Records via the North Carolina Database Application for Vital Events ("NCDAVE") system. NCDAVE is a statewide online system used to electronically register death certificates and eliminates the need for physical transfer of paper certificates. Individuals responsible for completing death certificates who refuse to certify a death certificate via NCDAVE may be subject to administrative fines. To access NCDAVE, please visit: <https://davenc.vitalchek.com/Web/Logon.aspx>

(Adopted: March 2019) (Amended: July 2021; May 2023)