

# MINUTES



**May 17 – 18, 2017**

**1203 Front Street  
Raleigh, North Carolina**

General Session Minutes of the North Carolina Medical Board Meeting held May 17-18, 2017.

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

### **Presidential Remarks**

Dr. Greene reminded the Board members of their duty to avoid conflicts of interest with respect to any matters coming before the Board as required by the State Government Ethics Act. No conflicts were reported.

### **Minutes Approval**

**Motion:** A motion passed to approve the March 15-17, 2017 Board Minute. There was not a Board Hearing in April, therefore there were no minutes for that month.

### **Announcement**

Dr. Greene introduced visiting guest, Dr. Paul Cunningham, President of North Carolina Medical Society.

The Legal department introduced a new Sr. Paralegal staff member.

Dr. Eleanor Greene congratulated Dr. Cheryl Walker-McGill for being elected to serve on the Federation of State Medical Board (FSMB) Board of Directors and Dr. Barbara Walker for being elected President of the American Association of Osteopathic Examiners (AAOE).

Board Members provided debriefs of the FSMB Annual Meeting.

Dr. Bryant Murphy provided an update on the 2017 National Rx Abuse Summit, and Governor's Task Force on Mental Health and Substance Abuse

Dr. Timothy Lietz provided a summary of the Third Annual Occupational Licensing Boards Best Practices seminar.

### **North Carolina Physician Health Program Reports (NCPHP)**

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public

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

Dr. Joe Jordan, CEO, North Carolina Physicians Health Program (NCPHP), gave the following Report: 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. Jordan and Mr. Holloman presented the NCPHP Board of Directors Responsibilities for Governance report.

### **NCMB Attorney's Report**

Mr. Thomas W. Mansfield, Chief Legal Officer and Mr. D. Todd Brosius, Interim Deputy General Counsel, gave the Attorney's Report on Thursday, May 18, 2017.

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

A written report on 45 pending cases and 26 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 was passed to return to open session.

### **Executed Cases - Public Actions:**

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

Balentine, Kerry Layne MD

Consent Order and Reentry Agreement executed 03/28/2017

Deleruyelle, Laura Jane NP

Relief of Consent Order Obligations executed 04/13/2017

Gyarteng-Dakwa, Kwadwo MD

Notice of Charges and Allegations; Notice of Hearing executed 05/03/2017

Hall, Wesley Wilkinson MD

Public Letter of Concern executed 04/19/2017

Hedrick, William Weston MD

Public Letter of Concern executed 03/28/2017

Kaplan, Robert David MD

Public Letter of Concern executed 4/12/2017

Khan, Farouk Yusaf MD

Interim Non-Practice Agreement executed 04/13/2017

McClelland, Scott Richard MD

Consent Order executed 4/25/2017

McKeown, John Michael MD

Consent Order executed 04/18/2017

Newman, Mark Glidwell MD

Non-Disciplinary Consent Order executed 04/04/2017

Orton, William Jack PA

Consent Order executed 03/29/2017

Owens, James Lee MD

Relief of Consent Order Obligations executed 04/11/2017

Parker, James Edward MD

Voluntary Surrender of License executed 05/02/2017

Pradhan-Costello, Anuradha PA

Reentry Agreement executed 04/18/2017

Rentz, Simms Hunter MD

Relief of Consent Order Obligations executed 04/24/2017

Salinas, Ruben Rolando MD

Public Letter of Concern executed 03/30/2017

Shilkitus, William Francis PA

Public Letter of Concern executed 04/12/2017

**NCMB Committee Reports**

**EXECUTIVE COMMITTEE REPORT**

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

Strategic Plan

a. Strategic Priorities Update

The Committee reviewed the updated Strategic Priorities 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 February 2017 and March 2017. March fifth month of fiscal year 2017.

Committee Recommendation: Accept the financial statements as reported.

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

b. Investment Account Statements

The committee reviewed the investment account statements for March and April 2017.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

c. Investment Workgroup Update

Fifth Third Bank accepted the Board's request for decreased investment advisor fees. This

will go into effect June 1, 2017.

Workgroup Recommendation: Accept as information.

Board Action: Accept Workgroup recommendation. Accept as information.

#### Old Business

a. Controlled Substances CME Update

NCMB's Chief Communications Officer (CCO), discussed efforts to notify licensees of the new controlled substances continuing medical education (CME) requirement and to provide licensees with free controlled substances CME.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. Proposed Changes to Rule 21 NCAC 32Y .0101

In January 2017, the Board approved for publication and comment proposed changes to Rule 21 NCAC 32Y .0101, also known as the Safe Opioid Prescribing Initiative ("SOPI") reporting criteria. The Committee carefully considered all comments that were received including suggestions to exempt hospice providers and to modify the reporting threshold for atypical opioids.

Committee Recommendation: Approve the changes without modification.

Board Action: Accept Committee recommendation. Accept as information.

c. Legislative Update

NCMB's Legislative Liaison, gave an update regarding pending legislation of interest to the NC Medical Board.

Committee Recommendation: Accept as Information.

Board Action: Accept Committee recommendation. Accept as information.

#### New Business

a. 2018 Federation of State Medical Boards (FSMB) Annual Meeting

The 2018 FSMB Annual Meeting will be held April 26-28 at the Sheraton-Le Meridien Charlotte Complex, Charlotte, North Carolina. Dr. Greene will create a planning committee to assist the FSMB with this meeting. All interested Board members should contact Mr.

Henderson by the end of May.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information

b. Attendance at FSMB Annual Meetings

Current Board policy limits the number of Board members who can attend the FSMB Annual Meeting. Those who attend greatly benefit from attending the educational sessions, learning best practices from colleagues around the country, and getting to know their fellow Board members better.

Committee Recommendation: Staff to determine the additional cost of all Board members attending the FSMB Annual Meeting and the cost savings of cancelling the April hearings.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

**POLICY COMMITTEE REPORT**

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

Old Business:

a. Use of Photography in the Examination Room (Appendix A)

At the July 2016 Committee meeting, there was discussion regarding the Disciplinary Committee's referral of a new position statement addressing use of recording equipment in the examination room. The Board instructed staff to draft a position statement for consideration by the Committee at the November 2016 Board meeting. The Board considered a draft of the position statement at the November 2016 Board meeting and made suggested changes and asked that the latest draft be submitted to Board stakeholders. A draft has been submitted to stakeholders and comments should be received and be considered by the Board at the March 2017 Board meeting.

The committee discussed that the most recent draft of the position statement was published in the Forum and on the NCMB website in order to gather feedback from licensees before final consideration and adoption.

Committee Recommendation: Await comments by the licensee population. Bring back for review at the July 2017 Board meeting.

Board Action: Accept Committee Recommendation. Await comments by the licensee population. Bring back for review at the July 2017 Board meeting.

b. Treatment of Obesity (Appendix B)

The committee discussed the current relevance of the position statement and whether it should be modified or deleted. The committee discussed methods of determining whether the position statement still served a useful purpose. After a consensus that the position statement is still relevant, it was suggested that in addition to mentioning hCG, the position statement should also include language addressing the inappropriate use of phentermine.

Committee Recommendation: Amend position statement to add concerns about phentermine as example.

Board Action: Amend position statement to add concerns about phentermine as example. Bring back for review at July 2017 Board meeting.

c. Medical Record Documentation (Appendix C)

The position statement was favorably reviewed. The committee discussed the issue of electronic health records and whether more expansive guidance was warranted. A further discussion was had that the mechanism by which the medical records are provided should not affect the standard of care. The committee agreed that there needs to be a clear, additional component to the position statement regarding electronic medical records. The Board instructed staff to amend the position statement to include concerns related to electronic medical records for consideration by the Committee at the July 2017 Board meeting.

Committee Recommendation: Assign Legal and Office of Medical Director staff the task of developing an additional component to the position statement regarding electronic medical records and bring back for review and consideration at July 2017 Board meeting.

Board Action: Accept committee recommendation. Assign Legal and Office of Medical Director staff the task of developing an additional component to the position statement regarding electronic medical records and bring back for review and consideration at July 2017 Board meeting.

New Business

a. Retention of Medical Records (Appendix D)

The committee discussed that the Board's position statement reflects the expectations of other entities regarding retention of records, but it might be helpful for the Board to articulate its own expectations to the Board's licensees. The Committee instructed staff to draft a position statement for consideration by the Committee at the July 2017 Board meeting. Further discussion was had regarding the need to provide a link to "Retention of Medical



Records” on the “Departures from or closings of medical practices” position statement and vice-versa.

Committee Recommendation: Assign Legal and Office of Medical Director staff the task of developing additional language for the position statement setting out a standard expectation related to the retention of medical records and bring back for review and consideration at July 2017 Board meeting.

Board Action: Accept committee recommendation. Assign Legal and Office of Medical Director staff the task of developing additional language for the position statement setting out a standard expectation related to the retention of medical records and bring back for review and consideration at July 2017 Board meeting.

### **LICENSE COMMITTEE REPORT**

Members present were: Timothy E. Lietz, MD, Chairperson, Barbara E. Walker, DO, Cheryl L. Walker-McGill, MD; Ralph A. Walker and Varnell McDonald-Fletcher, PA-C. Absent members were: Cheryl Walker-McGill, 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 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.

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.

Two 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**

Committee Members present were: Jerri L. Patterson, NP, Chairperson, Timothy E. Lietz, MD, A. Wayne Holloman and Varnell McDonald-Fletcher, PA-C

### New Business

#### a. Physician Assistants

Staff reported on its discussion regarding issues particular to physicians supervising large numbers of physician assistants. The topic is tabled until the staff can gather further data and bring a recommendation to the committee.

Committee Recommendation: Accept as information.

Board Action Accept Committee recommendation. Accept as information.

Staff reported on the recurring issue of changing the terminology in the PA rules from supervision to collaboration. The committee encouraged stakeholders to propose specific changes to the rules. Should specific rule changes be proposed, the committee will consider proposed changes at that time.

Committee Recommendation: Accept as information.

Board Action Accept Committee recommendation. Accept as information.

#### b. North Carolina Board of Electrolysis Examiners

The committee considered a request to nominate Summit Bhanji Kundaria, M.D. to Governor Cooper for appointment to the NC Board of Electrolysis Examiners.

Committee Recommendation: Submit the name of Summit Bhanji Kundaria, M.D. to Governor Cooper for appointment to the NC Board of Electrolysis Examiners.

Board Action Accept Committee recommendation. Submit the name of Summit Bhanji Kundaria, M.D. to Governor Cooper for appointment to the NC Board of Electrolysis Examiners.

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

Members present were: Bryant Murphy, MD, Chairperson; Venkata Jonnalagadda, MD; Jerri Patterson, NP; Barbara Walker, DO; and Ralph Walker, JD. Absent Members: Debra Bolick, MD

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public

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

The Disciplinary (Complaints) Committee reported on 50 complaint cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

### **DISCIPLINARY (MALPRACTICE) COMMITTEE REPORT**

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

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

The Disciplinary (Malpractice) Committee reported on 45 cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

### **DISCIPLINARY (Medical Examiner) COMMITTEE REPORT**

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

The Disciplinary (Medical Examiner) Committee reported on one case. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

### **INVESTIGATIVE INTERVIEW REPORT**

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

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

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

A motion passed to return to open session.

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

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

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

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

A motion passed to return to open session.

### **DIVERSITY WORK GROUP**

Members present were: Chairperson; Venkata Jonnalagadda, MD; Chairperson; Ralph Walker, JD; Cheryl Walker-McGill, MD.

Old Business

HR Director, discussed with the workgroup an upcoming staff training on Diversity in the Workplace. The training was requested by the workgroup at the November 2016 meeting.

New Business

a. Recent hires:

1. Investigations Project Coordinator (03/22/2017)
2. Credentialing Coordinator (03/22/17)
3. Sr. Paralegal (05/01/17)

b. Current open positions

1. Field Investigation Manager – East (07/01/17)
2. Communications Coordinator (06/12/17)

- c. Staff EEOC Census: This report presented a snapshot of our breakdown of race and age of staff at the Board. We are moving in the direction of becoming more diverse both racially and generational. Though we are moving in a positive direction, it is a slow process given our low staff turnover rate.
- d. Recently attended presentations: HR Director, recently attended Concrete diversity & inclusion strategies to implement for recruiting, retaining and more (HR Leads Business) and Diversity's New Frontier: Different Ways of Thinking (HRCI)
- e. Upcoming events: HR Director, will attend Understanding Generation Z (1995-2009) (SHRM)

## **OUTREACH COMMITTEE**

Members present were: Chairperson; Barbara E. Walker, DO, acting Chairperson; Bryant A. Murphy, MD; Shawn Parker; Members absent were: Debra A. Bolick, MD. and Pascal O. Udekwu, MD.

### Old Business

- a. Overview of Outreach Activities (Presentations)

The Communications Director provided an update on professional outreach to date. Interest in the Board's professional outreach program remains strong, with a record eight presentations in May and six scheduled so far for June. NCMB is on track to meet or exceed last year's outreach efforts. Opioid prescribing remains the most requested topic. NCMB's Assistant Medical Director recently gave a revised and enhanced version of the Board's opioids talk that covers recognizing and responding to signs of opioid abuse and diversion in sufficient detail to allow licensees who attend this presentation to use it to satisfy the new CS CME requirement.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

- b. Public presentations to consumer audiences

The Communications Director gave an update on public outreach so far this year. To date, NCMB Communications staff have presented to five consumer groups. NCMB has a few more public presentations scheduled and is continuing to seek additional opportunities. Staff members approach each talk as an opportunity to learn more about patient/consumer interests and concerns, which may help guide future outreach or inform the Board's efforts to develop resources for patients and the public.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

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

The last of four live opioids panel discussions coordinated by NCMB and Wake AHEC will be held May 24. The panel sessions have been well attended and well received. The events have also been used to encourage registration with the NC Controlled Substances Reporting System (NCCSRS). The Communications Department has developed a visual registration guide that is provided electronically in advance of a panel session and is available in hard copy at the event. The guide helps NCMB licensees more easily navigate to the right place on the Board's website. The Chief Communications Officer informed the committee that NC AHEC has awarded an additional grant to fund many more opioid panel discussions across the state. Details are still being worked out, but Wake AHEC hope to schedule up to 20 additional CS CME panel discussions. NCMB is evaluating strategies to fund related expenses, including food, for future sessions. The next rounds of sessions would likely start in September 2017.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

d. President's Initiative Update

The Chief Medical Officer reported that the UNC resident he previously identified has completed her rotation with the Board. She completed an analysis of licensee/clinician response to the Board's Safe Opioid Prescribing Initiative and has put together slides summarizing her findings. The Chief Medical Officer stated that this initial pilot project was "extremely successful" and recommended that the Board and staff spend some time determining what level of commitment NCMB is prepared to make to continue this program.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

## New Business

a. Public awareness resources brainstorming session

The Committee discussed opportunities to better reach patients and the public, including message, goals, and ways to measure the efficacy of NCMB efforts. The Committee briefly discussed some of the takeaways from the public market research survey conducted in fall 2016, including low public awareness of the Board and agreed that goals might include raising general public awareness of NCMB and its mission. The Communications Department is interested in developing consumer resources on specific topics of interest, such as the changing environment for opioid prescribing. The Committee discussed the possibility of developing a brochure or infographic card for patient audiences that licensees could offer in their waiting rooms or print on demand for patients as needed. The Committee also

discussed the possibility of seeking opportunities to partner with organizations that have interests in common, similar to NCMB's recent collaboration with Wake AHEC on the CS CME program except with a more patient/public focus.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

b. Forum newsletter digital supplement

Discussion tabled until July 2017, due to lack of time.

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Barbara E. Walker, DO; Secretary/Treasurer

## PROPOSED POSITION STATEMENT:

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

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

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

Informed Consent

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

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

Post-recording Responsibilities

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

1. Any recording is used only for the purpose for which the patient consented;
2. Patients are given the opportunity to see the recording if they so wish; and

Recordings are given the same protections as other medical records against improper disclosure.



### **Treatment of Obesity**

It is the position of the North Carolina Medical Board that the cornerstones of the treatment of obesity are diet (caloric control) and exercise. Medications and surgery should only be used to treat obesity when the benefits outweigh the risks of the chosen modality.

The treatment of obesity should be based on sound scientific evidence and principles. Treatment modalities and prescription medications that have not been proven to have beneficial effects should not be used. For example, it is the Board's position that it is inappropriate to: (1) the use of prescribe hCG for the treatment of obesity is not appropriate; or (2) to prescribe phentermine at excessive dosages, for inappropriate durations, or to patients that are not overweight.

Adequate medical documentation must be kept so that progress as well as the success or failure of any modality is easily ascertained.

(Adopted [as The Use of Anorectics in Treatment of Obesity] October 1987) (Amended March 1996, January 2005 [retitled], May 2013) (Reviewed November 2010)

## Medical Record Documentation

The North Carolina Medical Board takes the position that an accurate, current and complete medical record is an essential component of patient care. Licensees should maintain a medical record for each patient to whom they provide care. The medical record should contain an appropriate history and physical examination, results of ancillary studies, diagnoses, and any plan for treatment. The medical record should be legible. When the care giver does not handwrite legibly, notes should be dictated, transcribed, reviewed, and signed within a reasonable time. The Board recognizes and encourages the trend towards the use of electronic medical records (“EMR”). However, the Board cautions against relying upon software that pre-populates particular fields in the EMR without updating those fields in order to create a medical record that accurately reflects the elements delineated in this Position Statement.

The medical record is a chronological document that:

- records pertinent facts about an individual’s health and wellness;
- enables the treating care provider to plan and evaluate treatments or interventions;
- enhances communication between professionals, assuring the patient optimum continuity of care;
- assists both patient and physician to communicate to third party participants;
- allows the physician to develop an ongoing quality assurance program;
- provides a legal document to verify the delivery of care; and
- is available as a source of clinical data for research and education.

The following required elements should be present in all medical records:

1. The record reflects the purpose of each patient encounter and appropriate information about the patient’s history and examination, and the care and treatment provided are described.
2. The patient’s past medical history is easily identified and includes serious accidents, operations, significant illnesses and other appropriate information.
3. Medication and other significant allergies, or a statement of their absence, are prominently noted in the record.
4. When appropriate, informed consent obtained from the patient is clearly documented.
5. All entries are dated.

The following additional elements reflect commonly accepted standards for medical record documentation.

1. Each page in the medical record contains the patient’s name or ID number.
2. Personal biographical information such as home address, employer, marital status, and all telephone numbers, including home, work, and mobile phone numbers.
3. All entries in the medical record contain the author’s identification. Author identification may be a handwritten signature, initials, or a unique electronic identifier.
4. All drug therapies are listed, including dosage instructions and, when appropriate, indication of refill limits. Prescriptions refilled by phone should be recorded.

5. Encounter notes should include appropriate arrangements and specified times for follow-up care.
6. All consultation, laboratory and imaging reports should be entered into the patient's record, reviewed, and the review documented by the practitioner who ordered them. Abnormal reports should be noted in the record, along with corresponding follow-up plans and actions taken.
7. An appropriate immunization record is evident and kept up to date.
8. Appropriate preventive screening and services are offered in accordance with the accepted practice guidelines.

(Adopted May 1994; Amended May 1996; Amended May 2009; Reviewed May 2013)

## Retention of Medical Records

Licensees have both a legal and ethical obligation to retain patient records. The Board, therefore, recognizes the necessity and importance of a licensee's proper maintenance, retention, and disposition of medical records. The following guidelines are offered to assist licensees in meeting their ethical and legal obligations:

- State and federal laws require that records be kept for a minimum length of time including but not limited to:

1. Medicare and Medicaid Investigations (up to 7 years);
2. HIPAA (up to 6 years);
3. Medical Malpractice (varies depending on the case but should be measured from the date of the last professional contact with the patient)—licensees should check with their medical malpractice insurer);  
North Carolina has no statute relating specifically to the retention of medical records;
4. Immunization records always must be kept.

- In addition to existing state and federal laws, medical considerations may also provide the basis for deciding how long to retain medical records. Patients should be notified regarding how long the licensee will retain medical records.

- In deciding whether to keep certain parts of the record, an appropriate criterion is whether a licensee would want the information if he or she were seeing the patient for the first time. The Board, therefore, recognizes that the retention policies of licensees giving one-time, brief episodic care may differ from those of licensees providing continuing care for patients.

- In order to preserve confidentiality when discarding old records, all records should be destroyed, including both paper and electronic medical records.

- Those licensees providing episodic care should attempt to provide a copy of the patient's record to the patient, the patient's primary care provider, or, if applicable, the referring licensee.

- If it is feasible, patients should be given an opportunity to claim the records or have them sent to another licensee before old records are discarded.

- The licensee should respond in a timely manner to requests from patients for copies of their medical records or to access to their medical records.

- Licensees should notify patients of the amount, and under what circumstances, the licensee will charge for copies of a patient's medical record, keeping in mind that N.C. Gen. Stat. 90-411 provides limits on the fee a licensee can charge for copying of medical records.

- Licensees should retain medical records as long as needed not only to serve and protect patients, but also to protect themselves against adverse actions. The times stated may fall below the

community standard for retention in their communities and practice settings and for the specific needs. Licensees are encouraged (may want to) seek advice from private counsel and/or their malpractice insurance carrier